

# CHOOSING BETTER SCHOOLS

A REPORT ON STUDENT TRANSFERS  
UNDER THE **NO CHILD LEFT BEHIND ACT**



CITIZENS' COMMISSION ON CIVIL RIGHTS

# Choosing Better Schools

## *A Report on Student Transfers Under the No Child Left Behind Act*

Cynthia G. Brown  
Principal Author and Investigator

Lysandra López-Medina, Research Associate  
Robin A. Reed, Project Coordinator

Dianne M. Piché and William L. Taylor, Editors

Report of the Citizens' Commission on Civil Rights  
May 2004

Copyright © 2004 by Citizens' Commission on Civil Rights

Cover design by Rock Creek Publishing Group, Inc.

Cover photography by Rick Reinhard.

All rights reserved. This book, or parts thereof, may not be reproduced in any form without permission.

Citizens' Commission on Civil Rights (U.S.)

Choosing Better Schools: A Report on Student Transfers Under the No Child Left Behind Act  
Report of the Citizens' Commission on Civil Rights/Dianne M. Piché and William L.  
Taylor, editors. p. cm.

---

Copyright © 2004 Citizens' Commission on Civil Rights

2000 M Street, NW  
Suite 400  
Washington, DC 20036  
(202) 659-5565  
[www.cccr.org](http://www.cccr.org)

Published by Citizens' Commission on Civil Rights

## Acknowledgements

Many people contributed to this report. The Citizens' Commission is particularly grateful to Cynthia G. Brown, who served as the principal author and investigator. Ms. Brown is a consultant on education reform and equity and previously served for 15 years as Director of the Resource Center on Educational Equity at the Council of Chief State School Officers. The Commission is also grateful to staff members Lysandra López-Medina and Robin A. Reed, who assisted in researching and writing the report. Ms. Reed also contributed her vast talents to the design, layout and final production of the report.

Dianne M. Piché and William L. Taylor are the report's principal editors. Ms. Piché, the Commission's executive director, edited the report and prepared the Commission's recommendations. William L. Taylor, Chairman of the Commission, provided editorial expertise and overall guidance to the project.

The Commission is also grateful to Toinnette Marshall, who provided valuable administrative support and good cheer to the authors and editors during the preparation of this report. We also appreciate the assistance of attorney and educator Pamela Cherry, who launched in the initial research phase of the project. Additionally, we thank consultants Phyllis McClure, who has contributed her Title I expertise to Commission projects, particularly in the areas of state assessments and accountabil-

ity systems, and Kathy Downey, who has provided advice and assistance in connection with Commission projects.

The Commission also acknowledges the work of the authors of papers on public school choice that were presented at the conference "Leaving No Child Behind: Options for Kids in Failing Schools" held January 15-16, 2004 in Washington, D.C. We particularly appreciate these authors for granting the Commission permission to cite their work in this report: Julian R. Betts & Anne Dannenberg, Michael Casserly, Richard Lee Colvin, Robert Maranto & April Gresham Maranto, Alex Medler, David N. Plank & Christopher Dumbar, Jr., and Douglas S. Reed. We are also grateful to Nina Rees and Tom Corwin of the U.S. Department of Education, and to Todd Ziebart of the Education Commission of the States and Augenblick and Associates, for their willingness to consult with us as the report was being developed. Finally, we extend our appreciation to the many state and school district officials who responded to Commission requests for information about their implementation of the No Child Left Behind Act's public school choice provisions.

The Commission gratefully acknowledges the support of the following funders for our educational reform and equity projects: the Spencer Foundation, the Ford Foundation, the Taconic Foundation, and the William and Flora Hewlett Foundation.

## Foreword

The Citizens' Commission on Civil Rights is a bipartisan organization established in 1982 to monitor the civil rights policies and practices of the federal government and to seek ways to accelerate progress in the area of civil rights.

This report is the fifth in a series of studies by the Commission's Title I monitoring project, which examines whether and how federal reforms put into place through the 1994 and 2001 reauthorizations of Title I of the Elementary and Secondary Education Act of 1965 are being implemented in high-poverty schools.

Previous Commission reports on Title I include *Title I in Midstream: The Fight to Improve Schools for Poor Kids* (1999); *Title I in Alabama: The Struggle to Meet Basic Needs* (1999); *Closing the Deal: A Preliminary Report on State Compliance with Final Assessment & Accountability Requirements Under the Improving America's Schools Act of 1994* (2001); and *Title I in California: Will the State Pass the Test?* (2002). These and other education reports and policy briefs published by the Commission can be found on the Commission's website at [www.cccr.org](http://www.cccr.org).

# Members of the Citizens' Commission on Civil Rights

## Chair

William L. Taylor  
*Attorney, Washington, D.C.*  
Former Staff Director, U.S. Commission on Civil Rights

## Members

Birch Bayh  
*Venable, Baetjer, Howard & Civiletti*  
*Washington, D.C.*  
Former U.S. Senator from  
Indiana  
Former Chairman, Senate  
Subcommittee on the  
Constitution

Bill Bradley  
*Allen & Company*  
*New York, NY*  
Former U.S. Senator from  
New Jersey

William H. Brown, III  
*Schnader, Harrison, Segal & Lewis*  
*Philadelphia, PA*  
Former Chairman, Equal  
Employment Opportunity  
Commission

Frankie M. Freeman  
*Montgomery Hollie & Associates*  
*St. Louis, MO*  
Former Member, U.S.  
Commission on Civil  
Rights  
Former Inspector General,  
Community Services  
Administration

Augustus F. Hawkins  
*Washington, D.C.*  
Former U.S. Representative  
from California  
Former Chairman, House  
Education and Labor  
Committee

Aileen C. Hernandez  
*Aileen C. Hernandez Associates*  
*San Francisco, CA*  
Former Member, Equal  
Employment Opportunity  
Commission

Father Theodore M. Hesburgh  
*President Emeritus, University of Notre Dame*  
*Notre Dame, IN*  
Former Chairman, U.S.  
Commission on Civil Rights

William H. Hudnut, III  
*The Urban Land Institute*  
*Washington, D.C.*  
Former Mayor, City of  
Indianapolis

Diana Lam  
*New York, NY*  
Former Deputy Chancellor,  
New York City Public  
Schools  
Former Superintendent,  
Providence and San Antonio  
Public Schools

Ray Marshall  
*The LBJ School of Public Affairs,*  
*University of Texas*  
*Austin, TX*  
Former Secretary, U.S.  
Department of Labor

Eleanor Holmes Norton  
*Congresswoman, District of Columbia*  
Former Chair, Equal  
Employment Opportunity  
Commission

Ian Rolland  
*Fort Wayne, IN*  
Former Chief Executive  
Officer, Lincoln National  
Corporation

Rabbi Murray Saltzman  
*Fort Myers, FL*  
Former Member, U.S.  
Commission on Civil Rights

Roger Wilkins  
*George Mason University*  
*Fairfax, VA*  
Former Assistant Attorney  
General for Legislative Affairs  
Former Director, Community  
Relations Service, U.S.  
Department of Labor

## Executive Director

Dianne M. Piché

# Table of Contents

## Chapter 1

Introduction .....	I
--------------------	---

## Chapter 2

Findings and Recommendations .....	5
I. Findings .....	5
II. Recommendations .....	13

## Chapter 3

Background .....	19
I. Public School Choice Under Title I of No Child Left Behind .....	19
II. Implementation Activities by the U.S. Department of Education .....	24
III. A Brief History of Choice Policies .....	24
IV. The Controversy over Public School Choice .....	29

## Chapter 4

Difficulties and a Vision for NCLB School Choice .....	31
I. Difficulties of Choice: Parent Information, Unequal Funding of High-Poverty Schools, and Transportation .....	31
II. Resistance to Interdistrict Transfer Policies .....	32
III. A Positive Vision for Public School Choice .....	32

## Chapter 5

NCLB Public School Choice: How Many Students Are Transferring and Where .....	35
I. Parents Are Exercising Choice for Their Children .....	35
II. Racial/Ethnic Group and Income Desegregation and Segregation .....	48

## Chapter 6

School District Implementation Practices of the NCLB Act Public School Choice Provision .....	55
I. Affirmative Outreach to Notify Parents .....	55
II. District Procedures that Inconvenience Parents .....	58
III. District Failures to Inform Parents .....	58
IV. Effects of Offering Supplemental Educational Services on Parents Decisions to Transfer Their Children to Another School .....	59
V. Transportation Cost .....	59
VI. Information about Schools Receiving NCLB Transfer Students .....	61
VII. Denials of Requests Because of Lack of Capacity .....	62
VIII. Need for an Adequate Number of Transferee Schools .....	63
IX. The Relationship Between State and District Public School Choice Programs and NCLB Choice .....	65
X. Interdistrict Transfers .....	66

## **Chapter 7**

### **Challenges to Effective Implementation of the NCLB School Choice**

Provisions .....	71
I. Implementation Hurdles to Resolve .....	71
II. Challenges for Parents and Advocates Because of Bad Faith Implementation and Resistance .....	72
III. Limitations in the NCLB School Choice Provision .....	72

## **Appendix A**

Transfer Information Obtained From States and Jurisdictions .....	73
---	----

## **Appendix B**

Transfer Information Obtained About School Districts .....	78
--	----

## **Appendix C**

States, Jurisdictions and Districts that Did Not Respond to CCCR's Request for Information by April 1, 2004 .....	97
---	----

## **Appendix D**

States and Districts with Number of Eligible Students and Number of Transfer Requests Known for 2002-2003 and/or 2003-2004 School Years .....	98
---	----

## **Appendix E**

States and Districts with Number of Eligible Students and Number of Transfer Requests Known for Both 2002-2003 and 2003-2004 School Years .....	103
---	-----

## **Appendix F**

States and Districts with Number of Eligible Students, Number of Transfer Requests, and Number of Actual Transfers Known for 2002-2003 and/or 2003-2004 School Years .....	106
--	-----

## **Appendix G**

States and Districts with Number of Eligible Students, Number of Transfer Requests, and Number of Actual Transfers Known for Both 2002-2003 and 2003-2004 School Years .....	110
--	-----

## **Appendix H**

States and Districts with Number of Transfer Requests Only in 2003-2004 School Year .....	112
---	-----

## **Appendix I**

States that Only Sent Data on Consolidated Report Regarding the Number of Students Who Actually Transferred in 2002-2003 School Year .....	113
--	-----

## **Appendix J**

The No Child Left Behind Act of 2001: Major Titles and Programs .....	114
---	-----

## **Appendix K**

Title I Local Education Agency Allocations, United States .....	115
---	-----

## **Appendix L**

Title I Allocations to Selected Urban School Districts, 2003-2004 .....	116
---	-----

## **Appendix M**

Virginia's School Choice Survey for Districts .....	117
---	-----

<b>Endnotes .....</b>	<b>119</b>
-----------------------	------------

<b>References .....</b>	<b>124</b>
-------------------------	------------

<b>About the Authors .....</b>	<b>129</b>
--------------------------------	------------

## Chapter I

# Introduction

On January 8, 2002 President George W. Bush signed the No Child Left Behind Act of 2001 (NCLB). This historic piece of education legislation reauthorized and significantly expanded the Elementary and Secondary Education Act, first enacted in 1965. Its most important title, Title I, has focused federal government attention and money on students in high poverty schools for almost 40 years. The new Act was the result of bipartisan leadership among five political leaders—President Bush, Senators Kennedy and Gregg and Representatives Boehner and Miller—and a large majority of the U.S. Congress which felt great urgency to address the inadequate learning among the groups of students that federal programs are supposed to help the most.

NCLB significantly strengthened and expanded accountability requirements that were first enacted in the 1994 reauthorization of Title I. The Act also provided new tools for improving low performing schools. Congress enhanced the chances for success by voting the largest increase in history of federal dollars for elementary and secondary education, a 33% increase in Title I alone, during the first two years of NCLB. Title I funding for grants to high-poverty schools now exceeds \$12 billion per year.

Two new accountability provisions are prominent because they expand federal funding for public school parent choice. The first is the requirement that school districts offer students who attend low performing schools a choice to transfer, with free transportation, to another public school in the district that is not deemed

low performing. The second is the provision of supplemental educational services, i.e. free tutoring, by state-approved providers for low-income students in low performing schools.

School choice as a concept has had a long and somewhat checkered history. Indeed the first appearance of “freedom of choice” on the national policy scene came in the 1960s when Southern school districts gave parents the option to transfer their children from racially segregated schools. In fact, “choice” was a disingenuous device to avoid desegregation because public officials correctly assumed that fears of economic or physical retaliation would keep black families from registering their children in desegregated schools.

Since then choice has appeared in a variety of guises, generally designed to serve more positive educational purposes. Beginning in the late 1970s, choice began to be used as a device that could assist the desegregation process (in contrast to freedom of choice which was used to defeat desegregation). Magnet schools became a component of desegregation plans, often displacing mandatory reassignment. The message to parents was that while desegregation was a requirement, they would be given the right to choose among specialty schools which offered different curricular focuses or different teaching methodologies. Similarly, some districts adopted controlled choice plans in which parents selected three schools and school officials sought to secure desegregation while giving parents one of their top choices.

*The No Child Left Behind Act (NCLB)* contains 10 titles and authorizes numerous programs both old and new. Most of its large programs target high poverty schools and are administered by state education agencies. (See Appendix J for a listing of each NCLB title and its major sections.)

NCLB builds on the standards-based reforms that Congress enacted into Goals 2000 and the Elementary and Secondary Education Act in 1994. It endorses the belief that all students can learn at high levels if they receive high-quality instruction and have access to a strong curriculum. The Act *establishes a goal of proficiency for all students in core academic content areas within 12 years, by 2014*. NCLB assumes that the 1994 requirements have been met – state and local educators and community members have reached consensus on “what students should know and be able to do,” developed a set of specific and challenging academic content and student achievement standards, and put in place a rigorous curriculum, aligned with the standards, for *all* students.

The standards framework calls upon all those responsible for delivering public education — teachers, school and district administrators, and state officials — to be held accountable for reaching a measurable level of performance and accomplishment. The NCLB toughens the previous accountability requirements in Title I. It aspires to close achievement gaps by requiring that subgroups of racial/ethnic minorities, low-income students, students with disabilities, and students with limited English proficiency each achieve proficiency by 2014. It requires state testing in grades three through eight and defines more precisely the measure of “adequate yearly progress” for schools and districts. It also says for the first time that the federal government will no longer subsidize unqualified teachers and paraprofessionals.

In addition to specific accountability measures, the standards-based framework requires that expert assistance be provided to students and schools that need significant improvement. The new Act places even greater emphasis on such help.

Throughout NCLB there are calls for program activities based on “scientifically based research” and for “explanation[s] of why the activities are expected to improve student academic achievement.” State and local educators must spend these federal dollars on strategies and implementing activities with demonstrable evidence of success. In various places throughout the Act, Congress has specified the program approaches and activities that it believes are most likely to result in improved academic achievement for students in low performing schools. While they are not mandates, federal officials are likely to examine state and local plans with the expectation of finding several of them in use.<sup>1</sup>

During the same period, the private school voucher movement grew, fueled by conservative theory that competition would improve education. In response, in the late 1980s and 1990s a public school choice movement gained traction in a number of states, unconnected with the desegregation issue, and aided by the increasing mobility of society. The charter school movement allowed room for private administration of public schools and, at least in theory, offered decreased regulation in return for increased accountability. Today the vast majority of states provide not only for charter schools, but for pub-

lic school choice between districts as well as within districts.

This report by the Citizens’ Commission on Civil Rights (CCCCR) tells the story of early efforts to implement the new NCLB public school choice provision. Because data has been difficult to come by there are some holes in the narrative. But we have amassed sufficient information to reach some conclusions about the current efficacy of NCLB choice and about its potential.

A significant barrier to more extensive exercise of NCLB choice is that many education offi-

cials take a negative stance to giving parents a right to select the schools their children will attend. While there are exceptions to celebrate, few school officials see NCLB choice as an important opportunity for students. While most districts are complying to some degree with the law, in many cases compliance has been minimal. Moreover, many states have failed to cooperate by gathering and reporting in a timely manner complete data on implementation of the choice requirement even though the law requires them to do so. Most states also have been late in identifying low-performing schools from which students can transfer, leaving districts with time problems in implementing the choice and supplemental service options. Few states have provided guidance on implementation and most districts have done little affirmative outreach to parents.

When so many parents are left in the dark or ill-informed about choice, it is difficult to gauge their interest in moving their children to more successful schools. In fact what is striking is the amount of choice that apparently is taking place despite state and local deficiencies in the implementation of the program.

The Citizens' Commission is publishing this report now because it believes that both public school choice and supplemental services can be very useful tools in improving educational opportunities for disadvantaged children. Choice will provide an added incentive for school districts either to upgrade the offerings at schools that persistently perform poorly or to close them and allow better public schools to grow and flourish. If districts fail to act, choice will enable some disadvantaged children to transfer to better educational environments, often with less concentrated poverty.

Since many of the lowest performing schools are racially isolated as well as having high student poverty rates, choice will in some instances offer opportunities for desegregation as well, opportunities that will benefit all children. And the supplemental educational services provision, in providing tutoring services, will ensure more

individual attention to students who most need assistance.

## How This Report Was Done

Most school districts across the country that receive Title I funds and have low performing schools are in the middle of their second year of operating a public school choice program under NCLB. The Citizens' Commission on Civil Rights has undertaken its own independent research on implementation of the NCLB public school choice provisions to assess how NCLB choice requirements are being implemented. We also reviewed the research findings from other important efforts, particularly the National Working Commission on Choice in K-12 Education and recent papers commissioned by the American Enterprise Institute and Fordham Foundation. Finally, we also reviewed many newspaper articles and research and policy reports issued by other groups.

## Citizens' Commission Requests to States and Districts

In late summer 2003, the Citizen's Commission set out to collect information and examine the early implementation of NCLB choice programs. Our survey was neither a random sample nor scientific. This report describes our findings, conclusions, and recommendations.

In August, November, and December 2003, the Citizens' Commission sent letters to all states, the District of Columbia, Puerto Rico, the Virgin Islands and selected school districts requesting information concerning schools identified as in need of improvement and the public school choice program provided for students in those schools. We asked for specific information about the 2002-2003 and 2003-2004 school years, including:

- The number of schools identified under NCLB as in need of improvement (schools

that failed to make adequate yearly progress for two or more years).

- The number of students eligible for choice transfers.
- The number of students for whom their parents requested transfers.
- The number of transfers approved by the school district.
- The number of students who actually transferred.
- If possible, the number or percentage of low-income students whose parents requested transfers.
- Copies of choice notification materials sent to parents.

## Responses to Citizens' Commission Requests

The Citizens' Commission received responses, from minimal to thorough, from 47 states, one territory and 137 school districts. Some states and many districts responded with helpful information. But the information was frequently

just for the 2002-2003 school year and was often minimized. Nineteen states submitted data from their Consolidated Report to the U.S. Department of Education for 2002-2003 and no additional data. However, 12 states and the **District of Columbia** provided the extensive information requested by the Commission: **Alabama, Connecticut, Delaware, Indiana, Kansas, Louisiana, Maryland, Mississippi, South Carolina, Utah, West Virginia, and Virginia**. It appears that some of these states assembled detailed information directly in response to the Citizen's Commission request. One state, **Wyoming**, said it had no schools in need of improvement and a second, **Vermont**, reported its four Title I schools in improvement status did not offer choice because there were no other schools in their districts with the same grade levels. Two states never responded despite letters, calls, and emails. (See Appendix A.)

Citizens' Commission staff analyzed the information and materials submitted for this report. We also drew data and other information from numerous newspaper articles and research reports. We have organized the information and data as best we could. However, the data submitted is not really comparable from district to district. Sometimes we made assumptions about what districts actually intended to report. Our assumptions may not always be correct.

## Chapter 2

# Findings and Recommendations

This is a detailed study undertaken by the Citizens' Commission on Civil Rights of early implementation of the public school choice provisions in the No Child Left Behind Act of 2001. This study builds on and furthers prior research and reports of the Commission that have examined school choice in the context of magnet schools and other desegregation efforts, as well federal education reforms enacted under NCLB's predecessor, the Improving America's Schools Act of 1994.

The Commission's findings and recommendations for future action are as follows:

### I. Findings

A. Public school choice is used much more widely than previously reported and has educational and other benefits for students.

1. *The option given to parents under NCLB to choose a higher performing school for their children is one of several provisions in the law designed to improve educational opportunities for students in low-performing schools.*

- The public school choice provision in the NCLB Act is designed to provide an immediate benefit to students in low performing schools by enabling them to transfer to higher performing schools, while special ef-

forts are made to improve the quality of education in their original school.

- Choice can further both racial, ethnic and economic desegregation as well as offer students immediate enrollment in successful schools that may be largely segregated.
- The NCLB choice provision is an education improvement tool that should not be considered in isolation from the variety of tools that NCLB both requires and suggests for low performing schools. These other measures include: assistance and other resources from the school district and state; increased professional development; changes in curriculum and instruction; and parent involvement and notification.
- The majority of students in this country will remain in public schools near their homes, at least at the elementary school level. Consequently, educators need to employ, just as vigorously, the other improvement tools of NCLB and proven strategies for school success.
- 2. *Many parents are choosing higher performing schools for their children under NCLB.*
- After review of numerous school district and state agency reports, research studies and newspaper articles, the Citizens Commission is convinced that significant numbers of stu-

dents in schools identified for improvement under NCLB are choosing to attend higher performing schools. The percentages are small, but the numbers are large. We did not obtain nationwide data and we made conservative assumptions in the analysis of the data we reviewed.

- However, there is great variation among parents nationwide in their decisions about requesting and actually transferring their children under the NCLB provisions. In several places—large and small and geographically diverse—parents have demonstrated great interest in transferring their children to higher performing schools. In many other places, however, there were relatively few applications. There are so many factors that might affect parent interest, as we discuss and document below, that it is difficult without further study in local communities to draw conclusions about parent interest and motivation and barriers parents may face.
- The Citizens' Commission was able to confirm that almost 70,000 students exercised NCLB public school choice in the 2003-2004 school year.<sup>a</sup> Many more students transferred under the NCLB provision in states and districts for which we have no data.
- It appears that there is high interest among parents in transferring their children in some urban areas such as **Chicago**, **Detroit**, **New York City**, and **Philadelphia**. The first three of these districts significantly affected the total numbers and percentages of transfer

requests that we documented. But despite a high volume of applications, the proportion of actual transfers in these districts was small. In other large urban districts like **Cleveland** and **Los Angeles**, the requests for NCLB transfers were minuscule.

3. *Requests for NCLB transfers to higher performing schools were significantly greater than actual transfers to these schools.*

*Specifically, the Citizens' Commission determined from its data (which varied in completeness among states and districts) that:*

- 2.4% of eligible students chose higher performing schools in the 2002-2003 year.<sup>b</sup>
- 5.5% of eligible students chose higher performing schools in the 2003-2004 year.<sup>c</sup>
- Where the Commission received complete data for both school years, the percentage of eligible students making NCLB choices more than doubled, growing from 2.3% to 6.2% between 2002-2003 and 2003-2004.<sup>d</sup>
- The number of eligible students who were actually permitted or decided to transfer was much smaller than the number of applications. In states and districts where we had data, only 1.3% of eligible students actually transferred to higher performing schools in the 2002-2003 year.<sup>e</sup> Only 1.7% of eligible students actually transferred to higher performing schools in the 2003-2004,<sup>f</sup> less than half of the 5.6% of eligible students who had requested transfers in these districts.

<sup>a</sup> Data from 10 states plus 68 districts in remaining states.

<sup>b</sup> Data from 6 states plus 46 districts in remaining states.

<sup>c</sup> Data from 10 states plus 64 districts in remaining states.

<sup>d</sup> Data from 5 states plus 36 districts in remaining states.

<sup>e</sup> Data from 6 states plus 34 districts in remaining states.

<sup>f</sup> Data from 10 states plus 53 districts in remaining states.

<sup>g</sup> The percentage of eligible students actually transferring changed little, growing from 1.2% to 1.8% between 2002-2003 and 2003-2004 in the 5 states and

- Because so few districts with large enrollments submitted complete data for both school years on the number of students actually transferring, the percentages calculated by the Commission are of little use.<sup>g</sup>
- 4. *There is great variability among school districts in parent interest in transferring their children to higher performing schools under NCLB.*
- The Citizens' Commission found several school districts across the country where large numbers or percentages of eligible students requested NCLB transfers for the 2002-2003 and/or 2003-2004 school years and where all or a high percentage of the transfer requests were approved. In many places, however, very few transfer requests were approved. In several districts, even when the transfer requests were approved, as noted above, a smaller number of students actually enrolled in the new school they had chosen. Occasionally, students returned to their sending school during the school year.
- It appears that parents of middle and high school students chose more frequently than the parents of elementary school students to transfer their students to higher performing schools.

With regard to school district percentages of eligible students making choices under NCLB, the Citizens' Commission found:

- Three school districts—**Russell County, Alabama; Syracuse, New York; and Port-**

---

27 districts with complete data for both school years. In these states and districts, the percentage of eligible students making NCLB transfer requests also changed little between the two school years, growing from 2.3% in 2002-2003 to 2.7% in 2003-2004. However, because several large districts did not submit complete data for both school years, the base numbers are much smaller in these calculations.

**land, Oregon**—where over 20% of the eligible students made choices in the 2003-2004 school year.

- Twenty-four districts where between 10% and 20% of eligible students made choices in the 2002-2003 and/or 2003-2004 school years. These districts had between 121 and 6,466 students eligible to make transfer requests.
- Twenty-six districts where between 5% and 10% of eligible students made choices in the 2002-2003 and/or 2003-2004 school years. These districts had between 306 and 267,714 students eligible to make transfer requests. They included **Chicago, Detroit, and New York City**. However, in **Chicago** less than 1% of eligible students actually transferred in 2003-2004 and in **Detroit** no transfers took place. In **New York City** 2.6% of the eligible students actually transferred in 2003-2004.
- Twenty-one districts where between 3% and 5% of eligible students made choices in the 2002-2003 and/or 2003-2004 school years. These districts had between 260 and 33,371 students eligible to make transfer requests. They included districts like **Orleans Parish, Louisiana** and **Patterson, New Jersey** where virtually no students actually transferred, primarily because of a shortage of higher performing schools.
- Eight urban districts where approximately 1,000 eligible students requested choices in the 2002-2003 and/or 2003-2004 school years. In several, very few students actually transferred. These districts had between 4,645 and 300,000 students eligible to make transfer requests.

With regard to statewide percentages of eligible students making choices under NCLB, the Citizens' Commission found:

- Two states, **Connecticut** and **Utah**, that reported over 5% of eligible students chose to transfer to higher performing schools under NCLB.
  - Four states—**Alabama**, **Delaware**, **Louisiana**, and **South Carolina**—that reported between 3% and 5% of eligible students chose to transfer to higher performing schools under NCLB.
  - While the response rate was low, the Citizens' Commission found two states, **Connecticut** and **Utah**, and 16 districts that reported over 90% of transferring students were from low-income families.
5. *NCLB choice resulted in desegregation by race/ethnicity and income in some places.*
- The Citizens' Commission identified several school districts where NCLB transfer students quite clearly moved from schools segregated by both race/ethnicity and income to less segregated schools. For example, there are at least five districts in **Alabama**, where desegregation of minority and low-income students took place. And in **South Carolina** there were at least three districts where desegregation took place through NCLB choice.
  - In contrast there are anecdotal reports of diverse school districts where the students leaving schools needing improvement are those who are less disadvantaged and performing better than those who do not transfer.
6. *Much more intradistrict and interdistrict public school choice is taking place by state and local policy than NCLB public school choice.*
- Many districts throughout the country have adopted open enrollment or intradistrict transfer programs. Sometimes they result from desegregation plans. Often they are linked to the introduction of charter schools.
  - Many students in the country—perhaps as many as one-half million—are transferring between districts for purposes other than those explicit in NCLB. Such transfers are often made so students can attend a smaller school, receive more individualized attention, or enroll in a specialized program or school.
  - In **Michigan**, where researchers have documented competition for students among districts and there are state interdistrict choice policies, the state has done nothing to encourage the greater use of the state interdistrict transfer option by providing state-funded free transportation for low-income students or by promoting the free transportation incentives of the NCLB choice provisions.
  - In the states that have adopted statewide intradistrict and/or interdistrict choice programs separately from NCLB, especially when transportation is provided for low-income students, it is difficult to distinguish between these state program transfers and NCLB transfers. Since the result is the same—expanded educational opportunity—this should be celebrated not lamented. It appears that in states with more recent choice programs the effect of the NCLB choice provisions may be additive, though this is hard to document definitively.
  - While in some places public school choice is authorized by state law between districts rather than just within a district, such transfers are not permitted in many suburban districts adjoining cities and, even when available, are less than useful because of the lack of free transportation.
  - In many affluent districts, choice of residence is the primary means by which parents exercise choice in schools. In affluent

suburbs good schools inflate property values and if choice were to give access to good schools to people who reside elsewhere, property values might decline. This is one source of resistance to interdistrict public school choice. These policies of suburban districts sharply restrict the utility of transfer options that are limited to the district of residence. In cities where there are many schools in need of improvement, meaningful options may not exist without interdistrict choice.

7. *A few districts and states have integrated their own public school choice policies with NCLB choice.*
8. *The Commission found a number of districts where NCLB choice was implemented and working relatively well. In some cases, the districts' efforts were newly initiated as a result of NCLB, while in others the effort to comply with NCLB choice grew out of previous experience with desegregation plans and open enrollment policies.*
  - Based on information reported to the Commission (i.e, numbers of requests and actual transfers, notification provided to parents) it appears that NCLB choice is working relatively well in a significant number of districts. However, as we note below in recommendations for research, further study is needed at the district and school level to do a complete evaluation of the NCLB provisions.
  - There are states, e.g., **Florida**, and urban school districts, e.g. **Denver, Colorado** and **Columbus, Ohio**, where a voluntary transfer provision operating as part of a desegregation plan works effectively in a similar manner as intended under NCLB.

- B. The extent to which students have access to choice under NCLB is directly related to state and school district policies and practices.

1. *Virtually all school districts informed parents of the opportunity under NCLB to transfer their children to higher performing schools, but the quality of implementing the choice program and communication with parents varied widely.*
  - Most school districts complied partially with NCLB requirements to notify parents in low performing schools about the opportunities for public school choice. However, very few encouraged parents to exercise their options and most did not meet all the parent notification criteria of the Act and U.S. Department of Education Guidance. Only a few districts provided details about student performance or information on educational offerings in the schools that were open to transfer students.
  - Often districts told parents about specific limits written into the NCLB law itself that would discourage low income parents from choosing another school, e.g. that free transportation must be provided only as long as the sending school remains in improvement status. In contrast, a few districts went beyond NCLB choice provisions and agreed to provide free transportation until a student completed the last grade at the receiving school even if the status of the sending school changed in the interim.
  - Some critics of NCLB implementation to date cite the extensive efforts in some districts to emphasize in parent letters the steps being taken to improve a school identified in need of improvement and the availability of supplemental educational services. However, the NCLB law itself and federal Guidance require that districts include such information.

- Where appropriate, many districts sent letters to parents in two or more languages.
  - Several districts provided additional written guidance in the form of handbooks and brochures with questions and answers.
  - Many of the districts with the richest set of positive materials for parents are places where local open enrollment programs were already in place, often as a result of desegregation plans or policies.
  - Several districts conducted extensive, additional parent outreach activities.
  - Many districts notified parents about the choice opportunity too close to or after the opening of school and gave them a very short time to make a decision.
  - Few district letters explained how parents could help to increase student achievement, although such explanations are required by law.
2. *Many districts continue to use lack of school capacity to deny parents choices of some or all higher performing schools.*
    - Many districts continue to ignore the NCLB language and guidance that makes clear schools may not be exempted from participation on the ground that they lack the capacity to accept transfer students.
    - A few districts with growing enrollments refuse to use capacity as a reason to deny NCLB transfers. A few others addressed the capacity issue by making other arrangements, such as refusing transfers from schools not in improvement status, to give priority to students transferring under NCLB.
  3. *Most states have made NCLB choice implementation a low priority and have provided little assistance to parents or districts*
    - Few states have provided written guidance to districts and parents on effective implementation of the NCLB choice provisions
    - Most states were late in identifying schools in need of improvement, and
    - Most have gathered minimal documentation about the implementation of NCLB choice by districts. There were exceptions like **Virginia**, whose data collection form is in Appendix M.
- C In many cases, students' ability to choose better schools under NCLB is hampered in metropolitan areas by the unwillingness of more advantaged school districts to accept transfers from neighboring districts with schools in need of improvement.
1. *The NCLB requirement for districts to explore agreements on interdistrict choice is very weak.*
    - Clearly, the least efficacious NCLB choice requirement is the provision that a district with too few higher performing schools to offer as choices for students in schools needing improvement must establish, "to the extent practicable...a cooperative agreement with other [districts] in the area" for transfers. Many districts do not even try to establish such cooperative agreements either because they are not interested in having their students attend schools in other jurisdictions or because they assume that such efforts will be rebuffed.
    - The impact of this flabby policy is severe because in a great many cases, school districts with large numbers of low performing

schools are surrounded by more affluent districts with higher performing schools.

Some districts around the country with inadequate numbers of high performing schools asked neighboring districts if they would take transfers under NCLB from schools in their districts, but they got negative responses. The Citizens' Commission found specifically:

- No such transfers taking place, with the exception of one small, short-lived transfer in **Alaska** and transfers in 2003-2004 in **New Haven, Connecticut**.
  - In letters to parents in two school districts, there was reference to a specific interdistrict transfer possibility, but the districts provided no documentation that any such transfers took place.
  - In at least one instance, districts surrounding a central district with several schools in need of improvement were willing to accept transfers, but not requested to do so.
  - One state, **North Dakota**, that will require schools in year seven of the program improvement timeline to offer school choice across district boundaries to another contiguous district.
2. *Many students will have no choice under NCLB without a requirement for interdistrict public school choice opportunities.*

A major determinative factor in the effectiveness of NCLB choice is whether there are an adequate number of schools not in need of improvement to accommodate students seeking transfers from schools that do need improvement. However, this operates in very different ways in different places:

- In many urban districts the number of schools in need of improvement is so large

that there literally are not enough successful schools from which to choose.

- In many small, often rural school districts with only one school for each grade level or where all schools are identified for improvement, there are no other schools from which to choose.
- As the number of schools in need of improvement increases, there will be fewer choice options and more reliance on supplemental educational services especially in urban areas. However, the number of choice options could be increased through more interdistrict transfer opportunities and an increase in the number of charter schools.

- D. Free transportation is key to ensuring that parents can exercise choice, but statutory and implementation barriers have denied transportation to eligible students. Poor children continue to face an uneven "playing field" in seeking better schools.
1. *NCLB guarantees free transportation to students eligible to transfer from schools in need of improvement. This promise is undermined, however, by language removing a district's obligation to pay for transportation once the sending school is removed from improvement status, i.e. makes adequate yearly progress goals for two consecutive years.*
  2. *A few districts pay transportation costs for all students who live beyond a certain distance from school no matter what school they choose to attend and regardless of whether the choice was made under the NCLB provision, an open enrollment plan, or any other choice policy.*
  3. *Some districts follow the desirable practice of allowing students to complete the last grade of the school they transferred to with free transportation even if their sending school is removed*

*from improvement status. Other districts allow students to use an existing bus route to the choice school after their sending school has been removed from improvement status.*

4. *At least one district promised to find other funds to pay for transportation if the cost exceeds the 15% set aside in Title I.*
  5. *Some districts ignored the requirement for free transportation in violation of the law.*
- E. Choice of supplemental educational services provides another opportunity for low-achieving, low-income students.
- Low-income parents of children who continue to attend a school that has been in school improvement status for two years (at least three years of not making adequate yearly progress) may also opt for supplemental educational services for their children. But these free tutoring programs are not required for non-poor, low achieving students in the school. As a result, while low-income parents may ultimately have two choices to help their children, parents who are not low-income may have only one, school choice. However, a district could use its discretion to provide supplemental services to non-poor, low achieving students with its regular Title I funds.
  - Where schools are in the second year of improvement status, the availability of supplemental education services probably discourages some parents from choosing to transfer their children to other higher performing schools. This is not necessarily a problem if the quality of supplemental services is high.
  - Another important variable is whether or not supplemental services are provided at the school site because NCLB does not require districts to pay for transportation to the service site.
- F. Conditions at receiving schools may affect the success of the NCLB choice program.
- Some educators in schools receiving NCLB transfer students fear that test scores will go down and that their schools will eventually be unable to meet adequate yearly progress goals.
  - Some school authorities at receiving schools have expressed concerns about funding. The problem disappears when local and state dollars are budgeted on a student per capita basis and these dollars follow students to their new schools.
  - Studies have yet to be done on the impact of the transfer program on student achievement at the sending and receiving schools.
- G. Although studies of the impact of the choice program on student achievement have not yet been conducted there is every reason to believe that transferring students benefit academically.
- Major congressionally authorized studies from the Coleman Report in 1966 to the Prospects Study in 1993-1994 have demonstrated that high concentrations of poverty in public schools have a negative impact on children and that economically disadvantaged children perform better in more middle-class schools.
  - The evidence suggests that transfers under NCLB generally provide a less-disadvantaged environment for low-income students.

## II. Recommendations

### A. The Federal Government

#### U.S. Department of Education

1. *The Department should vigorously enforce the No Child Left Behind Act public school choice provisions.* The Department should put states on notice that it is their responsibility to assure that all school districts with schools in need of improvement implement this provision. The Department should conduct compliance reviews of states and districts reporting very little school choice taking place relative to the numbers of schools in need of improvement. The Department should also enforce the data collection and reporting provisions in the law so that parents, educators, administrators and federal, state and local officials are fully informed.
2. *The Department should strongly encourage interdistrict school choice.* The Department should do this, in cooperation with the states, by identifying those school districts that are unable to provide adequate transfer opportunities within their own borders but have not sought to enter into a cooperative agreement with nearby districts that could receive students. In cases where a district request for interdistrict choice is rejected by other school district/s in the state, the Department should strongly encourage the state to take whatever steps are available and necessary to facilitate interdistrict transfers.
3. *The Department of Education should establish and fund state demonstrations on interdistrict transfers for students from schools identified as in need of improvement.* This should include a range of incentive experiments (e.g. state and local funds follow students; extra funds per transfer student; grace period on accountability measures for receiving schools with regard to transfer students). There are

several state models to examine when the demonstration program is being designed.

4. *The Department should require districts to allow parents sufficient time to decide whether to request a transfer under NCLB.* The Department should require by regulation that where states do not publish a list of schools in need of improvement by July 1 before the school year starts, districts must offer parents choice on the basis of the previous year's list. If it is announced after July 1 that a school has been out of improvement status for a second year, already transferred students or students who have signed up should be guaranteed transportation through the end of the school year. Where new schools are identified after July 1, choice should be offered to parents immediately and the offer should continue through the midpoint of the school's academic year.
5. *The Department should improve and revise annual reporting requirements on NCLB choice.* The Department should require all states to report annually in their consolidated report, at a minimum, the number and percentage of a) students eligible for choice transfers; b) students for whom parents requested transfers; c) transfers approved by the school district; and d) students who actually transferred. The Department should require districts and states to collect and report the above information in a timely manner and disaggregated by the NCLB accountability subgroups (i.e., race/ethnicity, low-income status, limited English proficiency and disability). The Department should also require reporting of disaggregated enrollment data for both sending and receiving schools.

#### Congress

*At an appropriate time, Congress should consider the following legislative changes to NCLB:*

- Congress should continue to increase Title I funding levels to their authorized amount to allow for sufficient funding for schools to meet NCLB's proficiency goals, as well as to provide needed resources for NCLB's remedies for schools and districts in need of improvement, including enhanced professional development and other assistance to schools, school choice and supplemental services.
- The adoption of another "safe harbor" of two years before determining adequate yearly progress for schools where 10% of the enrollment is made up of NCLB transfer students. This would mitigate any disincentive for receiving schools or districts to welcome transfer students from Title I schools or districts in need of improvement.
- A requirement that free transportation continue to be provided to students enrolled in a choice program even after the sending school no longer needs improvement.
- A requirement that states take all steps needed, including the provision of transportation, to ensure the availability of interdistrict transfers where a) an entire district is identified as needing improvement under NCLB, or b) there is insufficient number of high-performing receiving schools in a district to meet the potential interest and demand from families eligible for NCLB choice. The federal law should place on the state the responsibility to take effective action to ensure that surrounding school districts with schools not in need of improvement agree to and do in fact accept transfers.
- Provide earmarked financial incentives for sending and receiving districts that engage in interdistrict transfers for students in schools needing improvement. Similarly, permit school districts to earmark a small portion of the 20% set-aside to reward receiving schools and to permit them to pur-

chase services (e.g., counseling, tutoring) that will help transfer students and their teachers to have a successful experience.

- Provide supplemental educational services to all students in schools identified for improvement for two years, not just low-income students, so that there is no special incentive for non-low income students to leave a school.
- Provide free transportation to and from supplemental educational service sites.
- Make permanent the 20% set-aside funds for choice and supplemental educational services; do not permit rollover of unused funds from the set-aside into the regular Title I budget unless the district can demonstrate, to the satisfaction of the State and representative parent organizations, that it has carried out these requirements to the best of its abilities, including complete and effective communication to parents about their rights and options, and has met parent interest and demand.

#### Federal Research Agencies and Private Foundations

1. *The Department of Education, including its Office of Innovation and Improvement and the Institute of Education Sciences (IES), along with private philanthropic foundations, should commission research on public school choice under NCLB, including studies of:*
  - What happens to transfer students over time, especially with regard to graduation rates and academic achievement.
  - Race relations in transferee schools.
  - The reasons why parents do or do not exercise choice.

- What impediments or barriers parents may face in choosing a better school for their children.
  - The impact of transfers on low performing sending schools, including changes in resource allocation, class size, achievement and other relevant factors.
  - The relationship between the NCLB public school choice and supplemental educational services provisions.
  - Impediments and needed incentives to stimulate interdistrict choice.
  - Further study of the implementation issues identified in this report, including school district and state case studies of both successful and unsuccessful NCLB choice programs.
2. *The Department or private funders should commission an integrated study of the operation and impact of public school choice programs of all types – including but not limited to: NCLB choice; open enrollment programs; controlled choice, magnet schools, and other desegregation choice programs; and charter schools.* The study should include at least six geographically diverse states, with substantial populations of poor and minority students, and examine both intra- and interdistrict choice options that are available to families. The study should collect and report data disaggregated by the NCLB accountability subgroups (race/ethnicity, poverty, disability and English proficiency) on students exercising an option for public school choice for any reason.

## B. States

States should provide leadership and assistance to districts in the implementation of key provisions of NCLB, including both school im-

provement and public school choice provisions. We urge state education leaders to:

1. *Provide the necessary resources to low-wealth and high-poverty districts* to enable them to furnish the instructional leadership and high-quality teaching needed to turn around Title I schools in need of improvement.
2. *Identify and publicize model school choice programs in the state*, including ways that such programs do effective parent outreach, recruitment and counseling. Identify and disseminate to schools, school districts, parents and the public successful ways to inform parents about: the local school improvement process and their opportunities to be involved in it, their options for choice and/or free tutoring services.
3. *Take whatever steps are available and necessary to facilitate interdistrict transfers.* States should act rapidly to identify those school districts that have been unable to provide adequate transfer opportunities within their own borders. States should work with these districts and, consistent with NCLB, seek to enter into cooperative agreements with nearby districts that could receive students. In cases where a district request for interdistrict choice is rejected by other school district/s in the state, the state should use whatever persuasive, and if necessary, legal, power it has to facilitate interdistrict transfers.
4. *Assist school districts in creating or enhancing capacity at successful schools* to enable them to receive transfer students without unduly burdening current students and staff.
5. *Ensure that districts include successful charter schools*, both within and near district boundaries, as receiving schools. States should further seek, through additional funding or technical assistance, to replicate successful

charter models to provide additional seats for students in successful classrooms.

6. *Ensure a sufficient supply of highly-qualified supplemental service providers.*

## C Schools and School Districts

Schools and school districts have the primary responsibility under NCLB for designing and carrying out the school choice requirements. We call on school districts to carry out their duties with enthusiasm and encouragement and to draw on lessons learned from other school choice models (e.g., desegregation choice plans, magnet schools and other districts doing an exemplary job in providing for choice under NCLB).

### 1. *Specifically, we recommend that school districts:*

- Aggressively work to notify parents of their right to choose higher-performing schools at the earliest possible date in advance of a school year, and to provide parents with the greatest amount of time to explore their options and to make a decision.
- Hire highly qualified professionals to set up parent outreach and recruiting programs to inform parents of their options, of the educational and other offerings at receiving schools and of the availability of free transportation.
- Provide training and encouragement to receiving schools to ensure a smooth transition and adequate preparation to welcome transfer students and to meet their academic, social (and if applicable, linguistic) needs.
- Ensure the smooth and efficient transfer of student records between schools.
- Take steps to ensure that students are not denied the right to transfer because of rigid rules or requirements, disabilities, linguistic

or other cultural barriers, or complaints or resistance among staff, parents, or students at receiving schools.

- Take steps to increase the number of seats at schools not in need of improvement, where necessary, to meet potential parent interest. These steps would include adding capacity to successful schools, reaching out to and formally including charter schools in the choice program, and aggressively working with the State and neighboring school districts to secure interdistrict transfers.
  - Notify the state promptly, including for purposes of obtaining assistance in securing interdistrict transfers, if the district determines it may not be able to accommodate all parents interested in choice.
  - Seek the state's assistance in increasing capacity within the district, in ensuring the availability of transfers to neighboring districts, in increasing the supply of successful charter schools in the area, and in providing the resources and other assistance needed to improve schools identified for improvement.
2. *We further recommend that schools also work closely with district professionals, with parents, and with the community to carry out their responsibilities to ensure parents are offered and provided with options to transfer and/or to receive tutoring services.* Schools should abandon any resistance to the program and carry it out for the benefit of the children and families involved. We recommend that schools work with and learn from other schools both within their districts and regions, as well as across the country, about how to make choice a positive experience for both children and adults.

## D. Parent and Community Organizations

Parent and community organizations have important roles to play under NCLB in the school improvement process. Moreover, NCLB grants parents unprecedented rights to be part of that process, as well as individual rights to take advantage of the school choice and free tutoring options at schools in need of improvement. *Parent and community organizations can be effective in:*

- Publicizing to parents their many rights under NCLB, including their rights:
  - a. to information on student achievement of state standards, including for their own children individually and for the school, district and state.
  - b. to public school choice.
  - c. to supplemental educational services.
  - d. to be notified when a school is designated as needing improvement.
- e. to participate in the school planning and improvement process.
- Advocating at the school, district and state level for compliance with school choice and other NCLB requirements, for more resources for high-poverty schools, and for better communication with and involvement of parents in school improvement plans and activities.
- Conducting trainings and workshops for parents and parent leaders on their rights and opportunities under NCLB. For more information or to set up such a workshop, please contact the Citizens' Commission on Civil Rights at (202) 659-5565, or e-mail [citizens@cccr.org](mailto:citizens@cccr.org). CCCR's reports, Power-Point presentations, and other materials are available at [www.cccr.org](http://www.cccr.org).



## Chapter 3

# Background

### I. Public School Choice Under Title I of No Child Left Behind

Title I of NCLB begins with a statement of purpose: “to ensure that all children have a fair, equal and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging State academic standards....” The purpose statement continues with a reference to holding educators accountable for reaching this goal including “identifying and turning around low-performing schools..., while providing alternatives to students in such schools to enable the students to receive a high-quality education.”<sup>2</sup>

The two major “alternatives” for students in low performing schools set forth in the new Title I are public school choice and supplemental educational services.<sup>3</sup> School districts must offer choice of transfer to a higher performing school in the district to all parents of students attending schools that have not made adequate yearly progress in student achievement for two years or more. Parents must be given the option of at least two schools, which may include charter schools, not identified as needing improvement. Districts must give priority in granting school choices to the lowest achieving students from low-income families.

If a district does not have enough higher performing schools to offer as a choice for students in schools needing improvement, NCLB asks the

district to establish, “to the extent practicable...a cooperative agreement with other [districts] in the area” for transfers.<sup>4</sup> In addition, if the entire district has been designated by the state under Title I as being in need of improvement, the state agency has the option of authorizing students to transfer to higher performing public schools in other high performing districts.<sup>5</sup>

The only exception to these public school choice provisions is if state law, though not local law, prohibits them. No state laws prohibit intradistrict choice. Some states, like **Illinois**, have enacted limitations on NCLB choice, such as excluding magnet schools.<sup>6</sup> Some states provide for interdistrict transfers, sometimes with subsidized transportation for low income students. With all transfers, federal civil rights laws must be followed so that no student is denied equal educational opportunity on the basis of race, color, national origin, sex, disability, or age.

NCLB contains explicit requirements for districts to notify parents of students in schools identified for school improvement, corrective action, or restructuring. Letters to parents or guardians must be understandable and uniform and, to the extent practicable, in a language parents can understand. They must explain:

- What the school improvement designation means.
- Why the school was identified for improvement and how it compares in terms of academic achievement with other schools.

## NCLB School Improvement Timeline

A school is identified for school improvement when it has not made adequate yearly progress (AYP) for two consecutive years. A school moves to the next “step” or “year” in this chart if it continues not to make AYP.

Year 1	Baseline Performance	
Year 2	Fail to make AYP	No consequences
Year 3	Fail to make AYP	No consequences
Year 4	1st year of School Improvement	Develop two-year school improvement plan, <sup>a</sup> technical assistance, <sup>b</sup> public school choice
Year 5	2nd year of School Improvement	Technical assistance, public school choice, supplemental educational services
Year 6	Corrective Action	Technical assistance, public school choice, supplemental educational services. Take at least one of the following corrective actions to bring about meaningful change at the school: <ul style="list-style-type: none"> <li>• Replace school staff</li> <li>• Implement a new curriculum based on scientifically based research</li> <li>• Significantly decrease management authority at the school level</li> <li>• Extend school day or school year</li> <li>• Appoint an outside expert OR</li> <li>• Reorganize the school internally</li> </ul>
Year 7	Restructuring	Public school choice, supplemental educational services, create plan for restructuring, carry out one of the following options: <ul style="list-style-type: none"> <li>• Reopen school as a charter school</li> <li>• Replace principal and staff</li> <li>• Contract for private management company of demonstrated effectiveness</li> <li>• State takeover</li> <li>• Any other major restructuring of school governance</li> </ul>
Year 8	Implementation of Restructuring	Implement alternate governance plan developed in year seven no later than first day of school year

<sup>a</sup> Plan must include research-based strategies, a 10% set-aside of Title I funds for professional development, extended learning time as appropriate, strategies to promote parental involvement and mentoring for new teachers.

<sup>b</sup> Assistance must address the academic achievement problem that caused the school to be identified.

*Sources: Sec. 1116 of Title I of NCLB; Department of Education, Office of Elementary and Secondary Education, Presentation on Choice Provisions of No Child Left Behind, National Title I Directors Conference in Anaheim, CA (Feb. 1-4, 2003); Letter from Secretary Rod Paige, Department of Education, on Adequate Yearly Progress (July 24, 2002).*

- What the school is doing to improve achievement and the help it is getting from district or state officials.
- How parents can become involved in addressing academic issues.
- Parents' option to transfer their children.<sup>7</sup>

NCLB requires that districts spend an amount equal to 20% of their Title I funds for public school choice transportation and supplemental educational services costs, a minimum of 5% for each program. Most districts set aside 20% of their Title I funds. Remaining funds can be folded into the regular Title I budget only after district officials are sure all eligible students wanting to participate in these programs are enrolled.<sup>8</sup>

If a district does not have enough funds available from its set aside, it must give transportation funding priority to the lowest achieving students from low-income families.<sup>9</sup> It may also use other federal education program funds to cover the cost of transportation for NCLB choices.<sup>10</sup>

Parents of students in schools identified as in need of improvement who choose to attend higher performing schools receive free transportation for their children as long as the sending school remains in improvement status. A school is removed from improvement status when it makes AYP goals for two consecutive years. While districts must permit students to complete the highest grade level in the school to which they transferred, when a school is removed from improvement status, parents of students who transferred have to choose between returning their child to the original school and assuming the cost of transportation to the new school.<sup>11</sup> Of course, a district could decide to continue to pay the transportation cost to the chosen school with other funds.

Low-income parents of children who continue to attend a school that has been in school improvement status for two years (at least three years of not making AYP) may also opt for supplemental educational services for their chil-

### NCLB School Choice: What the Law Says

“In the case of a school identified for school improvement under this paragraph, the local educational agency shall, not later than the first day of the school year following such identification, provide all students enrolled in the school with the option to transfer to another public school served by the local educational agency, which may include a public charter school, that has not been identified for school improvement under this paragraph, unless such an option is prohibited by State law.

In providing students the option to transfer to another public school, the local educational agency shall give priority to the lowest achieving children from low-income families, as determined by the local educational agency for purposes of allocating funds to schools under section 1113(c)(1).”

— No Child Left Behind Act of 2001, Title I, Sec. 1116 (b), 20 U.S.C.A § 6316 (b)(1)(E) (2003).

dren. Such services include free tutoring, remediation, and other educational interventions. Consequently, by this second year, low-income parents have two choices for improvement in the quality of education their children receive.<sup>12</sup> While those who are not low income are not required to be offered supplemental services through the 20% reserved funds, a district presumably could use its discretion to provide such services with its regular Title I funds.

NCLB requires states to report annually on the numbers of students and schools that participate in both public school choice and supplemental educational service programs and activi-

### The Improving America's Schools Act of 1994: State Compliance

In 2001, the Citizens' Commission reviewed state compliance with assessment and accountability provisions under Title I of NCLB's predecessor, the Improving America's Schools Act of 1994. Significantly, the Commission found most states had failed to follow the 1994 law's call for standards, aligned assessments and accountability systems. E.g., by January 2001, only 28 states had approved performance standards, and only 11 states had assessments that were fully approved by the Department of Education as meeting the new federal requirements for alignment with standards, inclusion of all students and other elements. Moreover, the Department of Education had taken no steps to review state accountability systems. See *Closing the Deal: A Preliminary Report on State Compliance With Final Assessment and Accountability Requirements Under the Improving America's Schools Act of 1994*, available at [www.cccr.org](http://www.cccr.org).

ties under Title I.<sup>13</sup> It also requires that states make this information widely available.<sup>14</sup>

The NCLB public school choice provision is the first *mandatory* school transfer requirement imposed on school authorities in the Title I authorization. In the previous 1994 reauthorization of Title I in the Improving America's Schools Act (IASA), public school choice was presented as an *option* for school districts in two sections.

The first IASA references to public school choice were two items on a menu of options for corrective action required of districts and states to address continually low performing schools.<sup>15</sup> The second was Section 1115A which allowed Title I funds to be used in combination with

state, local, and private funds to support public school choice. This section required development of a comprehensive plan with 10 specific assurances.<sup>16</sup> The section was dropped in NCLB.

While use of the choice provision option in IASA was voluntary, in the Fiscal Year (FY) 2000 appropriations bill, enacted in Fall 1999, and the FY 2001 appropriation bill, passed in December 2001, Congress required public school choice as an option in certain circumstances. Specifically, these bills said students in Title I schools that were identified as in need of improvement under Title I must be offered a choice to a higher performing school.<sup>17</sup> Districts were not required to provide or pay for the costs of transportation. The laws did provide an exception for districts when they demonstrated to their state education agency that they "lacked the capacity" to offer choice for all students in schools identified for improvement. They were to accommodate "as many students as possible." NCLB, however, contains no such exception language.

### A Note about State Decisions on the Numbers of Schools Identified as in Need of Improvement

The process by which states identify schools in need of improvement under Title I is complex. It begins with state and local educators and community members reaching consensus on "what students should know and be able to do." Education policymakers then develop a set of specific and challenging subject content standards and adopt student academic achievement standards. States must annually measure student achievement in math and reading/language arts on state tests at least once between grades 3 and 6, grades 7 and 9, and grades 10 and 12.<sup>18</sup> Beginning in 2005-2006, all states must administer annual tests in these subjects in each grade, 3 through 8, and once in high school. In 2007-2008 states must add annual tests in science for these grades.

Under the predecessor law to NCLB, states were required to identify schools and districts

not meeting AYP targets for the school as a whole as well as schools in need of improvement that did not meet AYP targets for two years. But states often did not publicly report their findings. Some actually ignored the requirement. (See sidebar on page 22.)

Some states have been publicly reporting adequate yearly progress of their schools for several years. Under NCLB, 2003 is the first year that every state must report publicly on AYP results. NCLB provides for such public reporting for each school and district as a whole for the 2002-2003 school year and all subsequent ones. *The biggest change is the NCLB requirement that for a school or district to be considered to have made AYP, it must make AYP for each subgroup of its students. The Act sets forth the subgroups as major racial and ethnic groups, low-income students, limited English proficient students, and students with disabilities.*

These new state reports have shown wide variations among states in the number of schools that have not met AYP targets as well as the number of those schools that did not meet AYP for two consecutive years and were consequently designated as schools in need of improvement. While critics have charged these differences might indicate great disparity among state standards, this is not necessarily the case. Standards vary among states, but there are other state factors with much more effect. The Education Trust has succinctly identified them in its recent report “What the New ‘AYP’ Tells Us About Schools, States, and Public Education” as the size of achievement gaps, the distribution of low-performing students, test participation rates, minimum number of tested students to count for accountability purposes, the number of grades tested, and tests of statistical significance used by states.<sup>19</sup> Of course, there are also substantial disparities among states in student achievement as demonstrated by the National Assessment of Educational Progress (NAEP).

Unfortunately states have been very late in identifying schools not meeting AYP targets and identifying schools in need of improvement. In a survey with responses from 46 of its 60 mem-

### State Reporting on NCLB Public School Choice

The U.S. Department of Education’s Consolidated State Performance Report Part I for the 2002-2003 school year has the following reporting requirements:

#### A. Public School Choice

1. Please provide the number of Title I schools identified for improvement, corrective action, and restructuring from which students transferred under the provisions for public school choice under section 1116 of Title I during the 2002-2003 school year.
2. Please provide the number of public schools to which students transferred under the provisions for public school choice under section 1116 of Title I during the 2002-2003 school year.
3. Please provide the number of students who transferred to another public school under the provisions for public school choice under section 1116 of Title I during the 2002-2003 school year.

bers, the Council of Great City Schools found that no school district received notice from its state of the identity of schools in need of improvement before the end of the 2002-2003 school year.<sup>20</sup> Consequently, districts had to contact parents in these schools over the summer and sometimes in the fall, after the start of the 2003-2004 school year, about choice options for the 2003-2004 school year. Maranto and

Maranto recently reported that half the states did not identify schools in need of improvement before the start of school.<sup>21</sup> At least one state, **Michigan**, by the end of 2003 still had not identified districts or schools not meeting AYP or in need of improvement.

## II. Implementation Activities by the U.S. Department of Education

The Bush Administration has placed a high priority on the prompt implementation of the public school choice provision of NCLB. In numerous public pronouncements, officials, including the President, have given the provision significant visibility. Administration officials have also engaged in vigorous debate with critics who maintain that the choice provision and the prominence given it by the Administration are intended to undermine public education in the country.

To underline its support of public school choice, as well as supplemental services, charter schools, and other initiatives, in 2002 the U.S. Department of Education established an Office of Innovation and Improvement headed by a Deputy Under Secretary. This office administers two dozen discretionary grant programs, including the Voluntary Public School Choice program with \$25 million in FY 2002 and close to \$27 million in FY 2004. In addition to this program, President Bush is proposing for FY 2005 a \$50 million Choice Incentive Fund, which will also be administered by this office. The office additionally administers two charter school programs: Charter School Grants funded at \$219 million in FY 2004 and the Credit Enhancement for Charter School Facilities program funded at \$37 million in FY 2004. President Bush has proposed increasing the latter program to \$100 million for FY 2005.

Significantly, the Office of Innovation and Improvement also oversees the public school choice

and supplemental educational services requirements in NCLB.

On December 4, 2003, the Department of Education published "Draft Non-Regulatory Guidance" on "Public School Choice." Prior to issuing this guidance, the Department issued formal rulings on such issues as the effect of NCLB choice on desegregation plans and the absence of an exemption to the choice requirement because of lack of capacity at higher performing schools. It published a revised draft of the guidance document on February 6, 2004. This 29 page document provides much useful information in a Question and Answer format to aid in proper implementation of the choice provision.<sup>22</sup> It includes reference to the annual State reporting requirement to the Secretary of Education. The Department also provided more detail about the reporting requirement which must be made through the Consolidated State Performance Report Part I on 2002-2003 school year due December 22, 2003.<sup>23</sup>

## III. A Brief History of Choice Policies

The opportunity for all parents to choose among schooling options for their children has grown dramatically in the last decade. These choices are less dependent than ever upon income and place of residence. While more affluent parents have always had choices by virtue of their ability to live where they want or to pay for private schools, choices for lower income parents are fairly recent.

The National Center for Education Statistics found that in 1999 *almost seven million public school students chose to attend public schools other than those closest to their homes*. Interestingly, the growth in public school choice outstripped the choice of private schools. The latter accounted for only 10% of school age students (a figure that has been relatively constant for years) while public school choosers rose to 14.5% of the population. The fastest growth was among low-income,

African American, and urban students, perhaps because magnet programs were directed to racially isolated public schools with relatively large numbers of poor children. The percentage of students enrolled at private schools that were not church related increased from 1.6 to 2.3%. The percentage enrolled in private, church-related schools remained about the same.<sup>24</sup>

There has been significant growth of publicly funded alternative schools, magnet and charter schools, and even vouchers in a few places. In addition, substantial private voucher funds targeting low-income students have provided other choices for parents. Homeschooling has become a more attractive and inexpensive option to some parents aided by expanding opportunities for learning through the Internet. The Citizens' Commission on Civil Rights agrees with the National Working Commission on Choice in K-12 Education conclusion that "choice in some form is here to stay and will likely expand in the near future."<sup>25</sup>

Much of this growth in public and private school choice options preceded the enactment of NCLB. In some cases, however, we note that the primary reasons for expanding these options, especially public school choice, may have had little to do with improving student achievement. They included parent interest in having their children attend smaller schools, receive more individualized attention, or enroll in a specialized program or school.

Below we outline the growth of various types of school choice programs.

## A. School Assignment

Traditionally in the United States, public school students, particularly elementary and middle school students, have been assigned to schools nearest their homes. Typically, elementary and middle schools fed into a high school encompassing several neighborhood attendance zones. Of course, there was a major exception. African American students, and sometimes Latino and other minority students, were assigned to segregated schools, oftentimes pass-

ing by a closer neighborhood school reserved for white, Anglo students. When the Supreme Court decided *Brown v. Board of Education* in 1954, segregation laws were enforced in 17 southern and border states, but other states had such laws in earlier periods and still followed segregative practices.

In some school districts there were two other exceptions at the high school level—vocational schools and exam schools. In many districts students who wanted a vocational/technical education could enroll in special schools in their district or the region that provided applied learning programs tied to specific occupations. Several large, urban districts, i.e. **New York City** and **Boston**, also offered to enroll students in selective high schools if they passed an examination or audition.

## B. Desegregation and Choice: Intradistrict and Interdistrict

### I. Freedom of Choice in the South

Ten years after the *Brown* decision, massive resistance in the South had prevented all but token desegregation. But the Congress enacted Title VI of the Civil Rights Act of 1964 which prohibited discrimination on the basis of race, color, or national origin in federally funded programs. The following year it passed Title I of the Elementary and Secondary Education Act. These two laws together provided a vehicle for broad-based implementation of the *Brown* decision in the South. Impoverished southern school districts wanted the federal Title I money, but they had to agree to desegregation plans to receive the funds. In 1965, the federal government set up an office to enforce Title VI and it primarily focused on southern school desegregation. When the federal government began withholding funds from non-complying districts, almost all got the message.

But districts still sought to minimize desegregation and to do so they adopted "freedom of choice" plans placing the burden on black par-

ents to seek transfers. As Liu and Taylor point out, “Unsurprisingly, whites chose almost exclusively to attend the segregated schools they had been attending, and blacks who thought about choosing a formerly white school for their children often faced the prospect of white hostility, economic and physical retaliation, and harassment.”<sup>26</sup>

In 1968 the Supreme Court effectively invalidated free choice, by holding that it could be used only if it produced substantial desegregation.<sup>27</sup> With these rules, southern districts proceeded to desegregate their schools, mostly by student assignment. By the end of the 1970s, southern schools had the greatest degree of desegregation of any region in the country.<sup>28</sup>

## 2 Interdistrict Choice

As African Americans migrated to central cities and as whites became suburbanized, it became clear in many urban areas that schools would be desegregated only if district lines were crossed. But in 1974, the Supreme Court by a 5 to 4 vote limited the use of interdistrict school desegregation remedies to places where interdistrict violations could be shown.<sup>29</sup> The impact was to lock students of color and poor students in isolated central city schools lacking the high expectations, good teachers, resources and accountability of suburban schools. These students were and are cut off from suburban middle class schools where there are usually high expectations and standards for student performance as well as ample resources including curricular materials, smaller class sizes, and good teachers.<sup>30</sup> Interestingly, the few southern states with county-wide school districts comprising both urban and suburban schools, e.g. **North Carolina** and **Florida**, had relatively greater success in desegregating their schools.

However, there were a few school districts, like **St. Louis** and **Wilmington, Delaware** where the Supreme Court test of interdistrict violations of the law were met in court and metropolitan desegregation plans were allowed to flourish.

In the 1970s, a number of school districts initiated small voluntary interdistrict programs, including the METCO program in **Boston** and a small program in **Rochester, New York**.

In the 1980s and 1990s several states adopted open enrollment policies allowing interdistrict transfers (see page 27). **Connecticut, Massachusetts, Missouri, and Wisconsin** have state-funded regional choice programs designed to reduce racial segregation.<sup>31</sup>

## 3 Controlled Choice

In the 1980s, a number of school districts implemented controlled choice as a desegregation tool, e.g. **Hillsborough and Pinellas Counties, Florida; Cambridge and Boston, Massachusetts**. More recently a few districts like **Wake County, North Carolina** have used controlled choice to achieve socio-economic desegregation. Under these plans parents are offered choices for their children, sometimes within sub-districts, that promote the goal of school integration by race/ethnicity or income.

## C Magnet Schools, Alternative Schools, and Charter Schools

In the decade of the 1970s, many school districts throughout the country established *magnet schools*, primarily to promote desegregation. Magnet schools adopt special curricula focuses such as math, science, or the arts or a particular methodology such as Montessori. Magnets often give extra operational flexibility to the principal in selecting staff and implementing programs. The federal government has promoted magnet schools financially through the Emergency School Assistance Program, the Emergency School Assistance Act, and ultimately the Magnet Schools Assistance Program,<sup>32</sup> which continues today and has a current school year appropriation of over \$109 million. At the turn of the 21st century there were approximately 1,400 magnet schools in the country.<sup>33</sup>

*Alternative schools* have grown in number steadily over the past two decades.<sup>34</sup> Generally, they provide more nurturing learning environments for students who do not do well in traditional schools, especially high schools. While they grant high school diplomas and/or general education diplomas (GEDs), they may be part of a school district or a separate entity, sometimes a community-based organization, with which a district contracts. Students enroll sometimes by choice and sometimes through assignment by courts and school officials in lieu of suspension or expulsion from their regular school. In **Minnesota**, more than 100,000 students were in alternative school programs both full-time and part-time in the 2000-2001 school year. A 2001 survey of students in five representative **Minnesota** schools found that students were most likely to enroll in order to “have a more individualized education, ... be in school with fewer students, ... be in a less restrictive learning environment, and to have a more flexible schedule.”<sup>35</sup>

In the 1990s the major new development was *charter schools*. Charter schools are nonsectarian public schools that operate under a performance contract with a State, local district, or other chartering authority, e.g. a college or university. Charter laws vary widely by state, but all provide freedom from many regulations governing the operation of regular public schools. The federal government supports planning, design, initial implementation, and evaluation of charter schools through the Public School Charter Program which made available \$200 million for the 2003-2004 school year. The U.S. Charter Schools website reports that 40 states and the District of Columbia have charter school laws and that 685,000 students attend 2695 charter schools in operation.<sup>36</sup>

#### D. Open Enrollment/Intradistrict Transfer Programs

An important element in the growth of public school choice has been the adoption by states

and districts of open enrollment or intradistrict transfer programs. This has often been linked with the introduction of charter schools. The National Center for Education Statistics reported that the number of districts with intradistrict choice grew from 14% to 25% between 1993 and 1999.<sup>37</sup> More recently the Education Commission of the States has reported a substantial increase in states allowing intradistrict choice, from 24 states and Puerto Rico in May 2003 to 31 states and Puerto Rico as of March 2004.<sup>38</sup>

#### E. Statewide Choice/Interdistrict Transfer Programs

In 1988, **Minnesota** became the first state to enact a law allowing students to enroll in schools across district lines without permission if their transfer did not have a negative impact on desegregation and the receiving district had space. According to the Education Commission of the States, 43 states and Puerto Rico provide for public school choice between districts.<sup>39</sup> The percentage of school districts allowing interdistrict choice has risen from 26% in 1993 to 46% in 1999 (73% in the West).<sup>40</sup> Today nineteen states and Puerto Rico require the allowance of interdistrict transfers.<sup>41</sup> Colvin reports that in 2003, between 1% and 3% of students used the option with 6.5% doing so in **Nebraska**.

Colvin continues:

*Analyses in Georgia, Massachusetts, Minnesota, and Wisconsin have found that white students participate in interdistrict choice programs at a significantly higher rate than do minority students, leading to concerns that such programs are exacerbating racial segregation....<sup>42</sup> [emphasis added]*

A few states, e.g. **Delaware**, **Iowa**, **Nebraska**, and **Wisconsin**, require the funding or reimbursement of transportation costs for interdistrict transfers for low-income students. In **Iowa** the sending district pays the cost.<sup>43</sup> In **Wisconsin**, low-income parents may apply to

the state Department of Public Instruction for reimbursement of transportation expenses.<sup>44</sup>

In some states, very large numbers of students are attending schools in districts other than where they reside. In **Minnesota**, interdistrict transfers to non-resident districts increased from 140 in 1988 to 28,077 in 2001.<sup>45</sup> There are also large numbers in **California**, **Delaware**, and **Wisconsin**.

**Michigan** adopted a voluntary interdistrict choice program in the mid-1990s that allows parents to choose any school within their own district or a contiguous district. Districts do not have to accept out-of-district students and there is no free transportation. State and local funds follow students to their new district. Because there is little enrollment growth in the state, there is considerable competition among districts for students. Plank and Dunbar report that the number of districts accepting transfers has nearly doubled since 1996 with about 70% of the state's school districts today open to non-resident students. The number of transfers has grown steadily. Currently, 43,756 students (2.3%) are interdistrict transfer students. The overwhelming majority are from major metropolitan areas including **Detroit**, **Grand Rapids**, **Flint**, **Lansing**, and **Pontiac**.<sup>46</sup>

**California** also has a voluntary interdistrict transfer program. About 130,000 students attend school outside their home district and, as in **Michigan**, districts are increasingly competing for students and the state funds that come with them.<sup>47</sup>

## F. Publicly Funded Voucher Programs

In the 1990s, **Wisconsin** and **Ohio** enacted programs to publicly fund voucher programs for low-income students in **Milwaukee** and **Cleveland**. Students could spend their vouchers in both sectarian and non-sectarian schools. In June 2002, the Supreme Court upheld the constitutionality of the Cleveland program in *Zelman v. Simmons-Harris*.<sup>48</sup>

In addition to **Ohio** and **Wisconsin**, four states—**Colorado**, **Florida**, **Vermont**, and **Maine**—have state-funded voucher programs. Those in **Colorado** are only available to low-income students in low performing school districts. In December 2003 a state judge ruled the program unconstitutional. Vouchers in **Florida** are available to students in “failing” public schools. State “town tuitioning” for education is over 100 years old in **Maine** and **Vermont**. School districts without schools pay for their students to attend other non-sectarian schools. In both states attendance at sectarian schools has been ruled unconstitutional.<sup>49</sup>

## G. Privately Funded Voucher Programs

Early in the 1990s, privately funded voucher programs began. In many of these programs, usually funded by wealthy businessmen, students receiving their support must come from low-income families and can choose any school they want to attend. In 2002, the General Accounting Office reported that about 46,000 students received an estimated \$60 million in private vouchers for tuition assistance through such programs.<sup>50</sup>

## H. Home Schooling

Schooling by parents in the home has also grown dramatically. In 1999, the National Center on Education Statistics found that 850,000 students were home schooled.<sup>50</sup> Observers agree that number has increased greatly, due largely to the expanding curriculum materials and other guides available to home schoolers on the Internet. In addition, growing numbers of states are sponsoring virtual schooling on-line, which provides opportunities for all students whether they are in public or private schools or are home schooled.

## IV. The Controversy over Public School Choice

The policy debates over the adoption of federal and state publicly funded school choice programs have become one of a handful of roaring battles in school reform today. As the National Working Commission on Choice in K-12 Education stated:

*At its worst, the public debate about choice is partisan, shedding more heat than light on the subject. Pitting ideologues on both sides of the question against each other, it is reminiscent of political campaigns at their worst, complete with personal attacks and attributions of base motives. The debate over choice is too rarely what it should be: a reasoned discussion of alternative arrangements for educating children.*<sup>52</sup>

Extreme choice advocates believe that: public schools will never improve on their own, market forces alone can ensure a quality and fair education, and opponents are mostly interested in protecting their political or economic advantage. At the other end of the spectrum, some proponents to choice believe that: market forces corrupt public purposes and are less accountable, public school districts alone can or should be trusted to meet the goals of public education, and competition always results in stratification by race, class, and religion.<sup>53</sup>

There are also voices of moderation on each side. Such choice supporters note that the only students who now have no choices are low-in-

come and that at least public school choice gives them a new option. They believe that competition creates incentives for improvement and replications of success in low performing schools and districts that will help make most children's schools better. More moderate opponents agree that low-income students are at a disadvantage and that some would benefit from choice schools, but they fear that the students and schools remaining behind will be worse off. They argue that a better effort is to equalize funding and upgrade existing schools and have concluded that the private sector has no special expertise to contribute in doing this.<sup>54</sup>

Liu and Taylor note that no matter what extreme choice proponents are pushing for, current public action is only moderately moving in that direction. They point out, for example, that every existing publicly funded voucher program conditions eligibility on income, assignment to a low-performing school, or another educational disadvantage. They have concluded:

*For now, voucher policies seem to reflect less of a free marketplace of educational suppliers and consumers than a targeted social intervention to aid the most disadvantaged.*<sup>55</sup>

*... [A]s far as a universal voucher plan is concerned, the proponents' intentions ultimately matter less than political dynamics on the ground, and those dynamics do not bode well for universality.*<sup>56</sup>

*School choice does not have an ardent following among middle-class [suburban] voters, who though politically conservative, are largely satisfied with their public schools.*<sup>57</sup>



## Chapter 4

# Difficulties and a Vision for NCLB School Choice

In the view of the Citizens' Commission on Civil Rights, NCLB's public school choice provision is an education improvement tool that should be considered in conjunction with the variety of tools and successful practices that NCLB both requires and suggests for low performing schools. As we show in the following pages, this tool can be wielded well or poorly by school officials.

### I. Difficulties of Choice: Parent Information, Unequal Funding of High- Poverty Schools, and Transportation

#### A. Parent Information

Low-income parents will not be able to make informed choices about schools for their children without substantial help from school districts and community groups. Parent decision-making can not take place on a "level playing field" unless parents who have never had such choices among schools before get "a lot of information about what choices are available, how to choose, and how to judge whether a given school is right for their child. This requires plentiful information and aggressive outreach."<sup>58</sup> Most districts have a long way to go in adequately in-

forming parents. For example, a recent survey in **Buffalo** by the Harvard Civil Rights Project found that 75% of parents questioned did not realize their child attended a school identified for improvement.<sup>59</sup>

#### B. Unequal Funding of High-Poverty Schools

While NCLB requires many important steps that potentially can help close the achievement gap between low-income and more affluent students and between white students and student of color, it is silent on the most egregious intradistrict school funding inequity. A 2003 report by Marguerite Roza and Paul Hill shows how districts often transfer millions of dollars each year from schools in low-income neighborhoods to those with more affluent students and higher-paid teachers. The study documents the previously hidden effects of the funding system used by most of the nation's school districts. This system allocates money among schools as if all teachers made the same salary even though better-paid teachers, usually with more years of experience, are much more likely to be teaching in affluent neighborhoods.<sup>60</sup>

As Hill has pointed out,

*This is hard to see with the naked eye, since high poverty [schools] have the same numbers of teachers (albeit, on average, lower paid) and also get add-on funds from federal programs. But when actual dollars are totaled up, per*

*pupil spending is lowest in the lowest-income schools.*<sup>61</sup>

This practice has been allowed under Title I for many years and continues today. Despite the addition of requirements for “comparability” in funding among schools in the 1970s, teacher salaries are generally exempt from calculations.<sup>62</sup>

If districts switched to a system that accounts for actual teacher pay, they could let high poverty schools recapture the lost dollars of high-paid, experienced teachers and spend them on smaller class sizes, afterschool programs, intensive professional development and coaching, or many other uses.<sup>63</sup>

Unfortunately, the effects of the teacher funding allocation practice described by Roza and Hill—benefits for more affluent schools and harms to high poverty schools—are little understood and have not to date galvanized local advocates for low-income children, policymakers, or education reporters.

### C. Transportation

While paying for the transportation of students who participate in transfer programs diminishes funds available for direct instruction, free transportation is indispensable to the participation of high poverty children in most choice programs. NCLB, with its provision for free transportation for students transferring out of low performing schools, encourages choice for low-income parents. Large appropriation increases have made the use of Title I for transportation more palatable for school officials. (See Appendices K and L for displays of appropriation increases since the enactment of the NCLB Act.) However, the Act’s provision that free transportation may be discontinued when a school gets out of the “needs improvement” status, a statement that appears in most districts’ letters to parents, discourages choice for these families and deprives the program of needed stability.

## II. Resistance to Interdistrict Transfer Policies

While in some places public school choice is authorized by state law between districts rather than just within a district, such transfers are not permitted in many suburban districts adjoining cities and even when available are less than useful because of the lack of free transportation. There, as elsewhere, choice of residence is the primary means by which parents exercise choice in schools.

Due to inequities in state funding formulas, suburban districts often spend more per pupil on instructional costs (including teachers’ salaries) than schools in high-poverty areas. In affluent suburbs good schools inflate property values. If choice were to give access to good schools to people who reside elsewhere, some residents fear property values might decline. This is one source of resistance to interdistrict public school choice. Indeed some districts employ investigators to locate non-residents who have obtained access to schools by using false addresses.<sup>64</sup> These policies of suburban districts sharply restrict the utility of transfer options that are limited to the district of residence. In cities where there are many schools in need of improvement, meaningful options may not exist without interdistrict choice.

## III. A Positive Vision for Public School Choice

The Citizens’ Commission believes public school choice, both intradistrict and interdistrict, is a useful “piece of the education reform puzzle.”<sup>65</sup> It can further racial, ethnic and economic desegregation and can offer students enrollment in schools that have succeeded despite segregation. But choice is just a piece. As Liu and Taylor noted, the majority of students in this country “will remain in neighborhood public schools, and school choice does not and will not

address their needs.”<sup>66</sup> Thus, educators need to employ, just as vigorously, the other improvement tools of the NCLB Act and proven strategies for school success.



## Chapter 5

# NCLB Public School Choice: How Many Students Are Transferring and Where

### I. Parents Are Exercising Choice for Their Children

After review of numerous school district and state agency reports, research studies and newspaper articles, the Citizens Commission is convinced that significant numbers of students in schools identified for improvement under NCLB are choosing to attend higher performing schools. The percentages of NCLB choice students are small, but the numbers are large. The use of this public school choice tool varies widely across the country. As we discuss in the next section, there are many factors that affect both its usefulness and the quality of its implementation.

Below we present the numbers as we found them. Unless otherwise cited, the information comes directly from state and district official written responses and enclosures submitted to the Citizens' Commission. However, as we noted above, **the data submitted is often not comparable from district to district.** Frequently, it is confusing. Sometimes we made assumptions about what districts actually intended to report and we recognize that our assumptions may not always be correct.

In a few instances, state submissions about particular districts and a district's own submission varied by a small amount. When this happened, we used the report that we concluded was most likely to be accurate (usually because of a more recent accounting).

The numbers we present below about NCLB public school choice transfers for the 2003-2004 school year are actually conservative. This is because we encountered a data problem that we did not have the time or resources to fix through multiple phone calls and emails. Specifically, it is nearly impossible to tell if districts required parents to exercise a new choice when a school is identified in need of improvement for a second year. Clearly parents who did not choose the first year get the opportunity to choose for the second year. Unfortunately, when we have data for 2002-2003 and 2003-2004 we probably have a mix of two types of data. In some places the transfers are the total for each year and in others the two years are additive. There is no way to sort this out without more follow-up. Consequently, we did not add the data together for the two years unless there was some formal indication that we should.

One other data problem should be noted. There are a few urban school districts that have such extensive intradistrict transfer programs, e.g. **Minneapolis** and **St. Paul, Minnesota**, or interdistrict transfer programs, e.g. the school districts in the **Wilmington, Delaware** area, that it is impossible to disentangle the NCLB Act and local choice program transfer numbers. In such cases, we used the data on NCLB choices as reported to us by the district.

Finally, as we show below, there is great variation among parents around the country in their decisions about requesting and actually transferring their children under the NCLB provi-

sions. In several places—large and small and geographically diverse—parents have demonstrated great interest in transferring their children to higher performing schools. In many other places they have indicated little interest. There are so many factors that might affect parent interest, as we discuss and document below, that it is difficult to draw conclusions about parent interest and motivation, along with barriers parents may face, without further study in local communities.

### A. States and Districts About Which the Citizens' Commission Was Able to Gather Information

The Citizens' Commission received *responses, minimal or complete, from 47 states, one territory and 137 districts* by April 1, 2004. See Appendices A and B for a listing of responding states and districts. (Some specific district data and other information we received from the states and not the districts themselves, usually because we did not request it from them.) Several states and districts provided numerical responses that allowed us to calculate the number and/or percentage of students exercising choice under NCLB in the 2002-2003 and/or 2003-2004 school years. The Citizens' Commission was also able to gather numerical information from newspaper articles and research reports.

### B. Total Number of NCLB Transfers Found by the Citizens' Commission

The Citizens' Commission was able to confirm that *almost 70,000 students in states and districts<sup>67</sup> exercised NCLB Act public school choice in the 2003-2004 school year*. This figure is based on data received from 10 states and 69 districts in remaining states. Many more students transferred under NCLB provision in states and districts for which we have no data.

### C. Total Percentage of NCLB-Eligible Transfer Requests Found by the Citizens' Commission

The Citizens' Commission was not able to calculate the percentages of eligible students whose parents exercised a choice for them in every place it obtained information about the numbers of choice students. This was because it needed either information on the names and total enrollment of each school identified for improvement or a state or district report on the total number of students eligible to exercise NCLB choice and the total number of requests. Sometimes the Commission was able to gather this information from newspaper articles and research studies. The two most helpful studies were those issued in January 2004 by the Council of Great City Schools — a report commissioned by the American Enterprise Institute and Fordham Foundation — and by the Center for Education Policy.

The Citizens' Commission was able to determine the percentage of eligible students making NCLB Act choices in several states and districts. In the 2002-2003 school year, we found that *2.4% of eligible students (17,892 out of 735,803)<sup>68</sup> chose higher performing schools and in 2003-2004 5.5% of eligible students (67,005 out of 1,222,212)<sup>69</sup> chose such schools*.

In the states and districts where the Commission received complete data for both the 2002-2003 and 2003-2004 school years,<sup>70</sup> *the percentage of eligible students making NCLB choices more than doubled, growing from 2.3% (16,038 out of 695,530) in 2002-2003 to 6.2% (53,604 out of 863,821) in 2003-2004*.

As will be seen in the charts that follow, it appears that there is high interest among parents in transferring their children in some urban areas such as **Chicago, Detroit, New York City, and Philadelphia**. The first three of these districts significantly affected the total numbers and percentages of requests that we documented. But despite a high volume of applications, the proportion of actual transfers in these districts was

small. In other large urban districts like **Cleveland** and **Los Angeles** the requests for NCLB transfers were miniscule.

#### D. Total Percentage of NCLB-Eligible Actual Transfers Found by the Citizens' Commission

The Citizens' Commission was able to gather information for a smaller number of districts on the number of students who not only made requests for NCLB transfers, but who were actually permitted or decided to transfer. Unfortunately, the number and proportion of students actually transferring was considerably lower than the number and proportion making requests.

In states and districts with data for the 2002-2003 school year, we found that *2.3% of eligible students (6,921 out of 303,167)<sup>71</sup> requested transfers to higher performing schools, but only 1.3% (3,843) actually transferred. In 2003-2004, 5.6% of eligible students (64,644 out of 1,160,095)<sup>72</sup> requested transfers to such schools but significantly less than half, 1.7% (20,233), actually transferred.*

There were 5 states plus 26 districts in remaining states where the Commission received complete data for both the 2002-2003 and 2003-2004 school years on the numbers of eligible students, requests for transfers, and actual transfers. However, because several large districts did not submit such complete data, the base numbers are much smaller in the following calculations. In these states and districts, *the percentage of eligible students making NCLB transfer requests changed little between the two school years, growing from 2.2% (6,089 out of 280,606) in 2002-2003 to 2.5% (6,822 out of 271,392) in 2003-2004. The proportion of students actually transferring was lower both years: 1.2% (3,285) in 2002-2003 and 1.6% (4,417) in 2003-2004.*

#### E. Districts with Significant Numbers and/or Percentages of Students Making NCLB Choices

The Citizens' Commission found several school districts across the country where large numbers or percentages of eligible students requested NCLB transfers for the 2002-2003 and/or 2003-2004 school years and where all or a high percentage of the transfer requests were approved. In many places, however, very few were approved. In several districts even when the transfer requests were approved, a smaller number of students actually enrolled in the new school they had chosen. Occasionally, students returned to their sending school during the school year.

The Citizens' Commission requested from states and districts the numbers of: students eligible for NCLB choice transfers, students requesting transfers, students with approved transfers, and students who actually transferred. It also asked, where possible to determine, the number or percentage of low-income students whose parents requested transfers. The Commission received this complete information from a smaller number of states and districts than those where we learned the numbers of students eligible for NCLB transfers and those making transfer requests.

#### F. Districts with Over 20% of Eligible Students Requesting NCLB Transfers

The Citizens' Commission found three school districts—**Russell County, Alabama**; **Syracuse, New York**; and **Portland, Oregon**—where over 20% of the eligible students requested choices under the NCLB provisions. They had between 106 and 6,349 students eligible for NCLB transfers. **Russell County** is a rural school district with one small school in need of improvement. **Syracuse** has offered choice from schools needing improvement for three

Figure 1. School Districts with Over 20% of Eligible Students Requesting NCLB Transfers in 2001-2002, 2002-2003 and/or 2003-2004 School Years

District	School Year	Number of Eligible Students	Number and Percentage of Eligible Students Requesting Transfers	Number and Percentage of Transfer Requests Approved by District	Number and Percentage of Eligible Students Actually Using Transfers
Russell County, AL	2003-2004	106	30 (28.3%)	30 (100%)	30 (28.3%)
Syracuse, NY	2001-2002	6,349	1,035 (16.3%)	NI*	551 (8.7%)
	2002-2003	5,928	918 (15.5%)	NI	472 (8.0%)
	2003-2004	4,645	995 (21.4%)	NI	616 (13.3%)
Portland, OR	2003-2004	3,358	862 (25.7%)	862 (100%)	862 (25.7%)

years. **Portland** has had a districtwide public school choice program for 20 years. For the 2003-2004 school year, it had three high schools and one middle school in need of improvement. Out of 3,358 district transfer requests, 862 students (25.7%) made choices under NCLB. High school students made up about 78% of the NCLB Act transfer requests. The **Portland** program is discussed in more detail in the next section. (See Figure 1.)

#### G. Districts with 10% to 20% of Eligible Students Requesting NCLB Transfers

The Commission found 22 districts where between 10% and 20% of eligible students made choices under NCLB in 2002-2003 and/or 2003-2004 school years. In most of these a high proportion of students actually transferred. An exception was **Prince George's County, Maryland** in 2002-2003. These districts had between 121 and 6,466 students eligible to make transfer requests. (See Figure 2.)

#### H. Districts with 5% to 10% of Eligible Students Requesting NCLB Transfers

The Citizens' Commission found 26 districts where between 5% and 10% of eligible students made choices under NCLB in the 2002-2003 and/or 2003-2004 school years. These districts had between 306 and 267,714 students eligible to make transfer requests. They included three large urban districts with several thousand students eligible for NCLB transfers: **Chicago, Detroit, and New York City**. However, in **Chicago** less than 1% of eligible students actually transferred in 2003-2004 and in **Detroit** no transfers took place. In **New York City** 2.6% of the eligible students actually transferred in 2002-2003. (See Figure 3.)

---

\*"NI" indicates that no information was available.

Figure 2. School Districts with Between 10% and 20% of Eligible Students Requesting NCLB Transfers in 2002-2003 and/or 2003-2004 School Years

District	School Year	Number of Eligible Students	Number and Percentage of Eligible Students Requesting Transfers	Number and Percentage of Transfer Requests Approved by District	Number and Percentage of Eligible Students Actually Using Transfers
Huntsville, AL	2003-2004	1,251	142 (11.4%)	142 (100%)	142 (11.4%)
Jefferson County, AL	2003-2004	429	44 (10.3%)	44 (100%)	44 (10.3%)
Washington County, AL	2003-2004	409	63 (15.4%)	63 (100%)	63 (15.4%)
Escondido, CA <sup>a</sup>	2002-2003	1,500	180 (12.0%)	NI	NI
New Haven, CT	2003-2004	1,262	207 (16.4%)	207 (100%)	207 (16.4%)
Duval County, FL <sup>b</sup>	2003-2004	3,534	436 (12.3%)	436 (100%)	NI
Palm Beach County, FL	2003-2004	3,920	401 (10.2%)	401 (100%)	387 (9.9%)
Indianapolis, IN <sup>c</sup>	2002-2003	6,466	914 (14.1%)	486 (53.2%)	NI
	2003-2004	2,940	275 (9.4%)	275 (100%)	NI
Emporia, KS	2002-2003	263	49 (18.6%)	49 (100%)	49 (18.6%)
Caddo Parish, LA	2003-2004	3,371	602 (17.9%)	515 (85.5%)	306 (9.1%)
Frederick County, MD	2002-2003	1,209	58 (4.8%)	NI	56 (4.6%)
	2003-2004	1,137	122 (10.7%)	122 (100%)	122 (10.7%)
Prince George's County, MD	2002-2003	5,915	656 (11.1%)	NI	117 (2.0%)
	2003-2004	5,029	280 (5.6%)	NI	244 (4.9%)
St. Mary's County, MD	2002-2003	1,230	59 (4.8%)	59 (100%)	55 (4.5%)
	2003-2004	298	31 (10.4%) <sup>d</sup>	NI	48 (16.1%) <sup>d</sup>
Santa Fe, NM	2003-2004	1,375	197 (14.3%)	197 (100%)	NI

Figure 2. School Districts with Between 10% and 20% of Eligible Students Requesting NCLB Transfers in 2002-2003 and/or 2003-2004 School Years (continued)

District	School Year	Number of Eligible Students	Number and Percentage of Eligible Students Requesting Transfers	Number and Percentage of Transfer Requests Approved by District	Number and Percentage of Eligible Students Actually Using Transfers
Charleston County, SC	2002-2003	2,071	281 (13.6%)	NI	145 (7.0%)
	2003-2004	4,785	467 (9.8%)	NI	454 (9.5%)
Greenville, SC	2003-2004	3,636	574 (15.8%)	574 (100%)	574 (15.8%)
Spartanburg 7, SC	2003-2004	651	120 (18.4%)	120 (100%)	120 (18.4%)
Hamilton County (Chattanooga), TN	2003-2004	3,366	484 (14.4%)	484 (100%)	484 (14.4%)
Alexandria City, VA	2003-2004	192	26 (13.5%)	26 (100%)	NI
Tacoma, WA	2001-2002	3,020	1,076 (35.6%)	1,076 (100%)	1,076 (35.6%)
	2002-2003	3,101	565 (18.2%)	565 (100%)	565 (18.2%)
	2003-2004	2,350	253 (10.8%)	253 (100%)	253 (10.8%)
Marian County (Fairmont), WV <sup>a</sup>	2002-2003	121	29 (24%)	NI	NI
Wood County (Parkersburg), WV	2002-2003	452	48 (10.6%)	48 (100%)	48 (10.6%)
	2003-2004	450	43 (9.6%)	43 (100%)	43 (9.6%)

<sup>a</sup> Data from news article or other report.

<sup>b</sup> Presumably this data is for 2003-2004, but it is unclear from the information submitted.

<sup>c</sup> Probably two years should be combined.

<sup>d</sup> Numbers checked as correct by state officials; apparently some parents made requests for more than one child.

Figure 3. School Districts with Between 5% and 10% of Eligible Students Requesting NCLB Transfers in 2002-2003 and/or 2003-2004 School Years

District	School Year	Number of Eligible Students	Number and Percentage of Eligible Students Requesting Transfers	Number and Percentage of Transfer Requests Approved by District	Number and Percentage of Eligible Students Actually Using Transfers
Mobile, AL	2003-2004	4,696	240 (5.1%)	240 (100%)	202 (4.3%)
Talladega County, AL	2003-2004	306	28 (9.2%)	NI	28 (9.2%)
Anchorage, AK	2002-2003	398	26 (6.5%)	26 (100%)	26 (6.5%)
Little Rock, AR	2002-2003	3,323	202 (6.1%)	135 (66.8%)	106 (3.2%)
San José, CA <sup>a</sup>	2002-2003	513	29 (5.7%)	NI	29 (5.7%)
	2003-2004	3,479	9 (0.3%)	NI	6 (0.2%)
Clarke County, GA	2002-2003	1,552	38 (2.4%)	38 (100%)	36 (2.3%)
	2003-2004	1,070	77 (7.2%)	77 (100%)	67 (6.3%)
Sumter County, GA	2003-2004	2,090	169 (8.1%)	169 (100%)	NI
Chicago, IL	2002-2003	145,000 <sup>b</sup>	2,425 (1.7%) <sup>b</sup>	1,170 (48.2%) <sup>b</sup>	NI
	2003-2004	270,757	19,246 (7.1%)	1,097 (5.7%)	528 (0.2%)
Rockford, IL <sup>b</sup>	2002-2003	1,600	117 (7.3%)	NI <sup>c</sup>	NI <sup>c</sup>
	2003-2004	6,500	250 (3.9%)	NI <sup>c</sup>	NI <sup>c</sup>
Fort Wayne, IN	2003-2004	1,477	85 (5.8%)	NI	81 (5.5%)
Wichita, KS	2002-2003	1,870	46 (2.5%)	NI	5 (0.3%)
	2003-2004	1,980	100 (5.1%)	NI	85 (4.3%)
Jefferson County, KY	2002-2003	2,883	190 (6.6%)	NI	155 (5.4%)
	2003-2004	3,100	189 (6.1%)	NI	158 (5.1%)
East Baton Rouge, LA	2003-2004	3,219	176 (5.5%)	176 (100%)	176 (5.5%)

Figure 3. School Districts with Between 5% and 10% of Eligible Students Requesting NCLB Transfers in 2002-2003 and/or 2003-2004 School Years (continued)

District	School Year	Number of Eligible Students	Number and Percentage of Eligible Students Requesting Transfers	Number and Percentage of Transfer Requests Approved by District	Number and Percentage of Eligible Students Actually Using Transfers
Jefferson Parish, LA	2003-2004	369	21 (5.7%)	21 (100%)	21 (5.7%)
Pointe Coupe Parish, LA	2003-2004	822	78 (9.5%)	NI	NI
Anne Arundel County, MD	2002-2003	2,453	73 (3.0%)	NI	73 (3.0%)
	2003-2004	1,832	118 (6.4%)	NI	98 (5.3%)
Baltimore County, MD	2002-2003	1,839	93 (5.1%)	93 (100%)	88 (4.8%)
	2003-2004	1,316	93 (7.1%)	93 (100%)	89 (6.8%)
Detroit, MI <sup>b</sup>	2003-2004	11,000	900 (8.2%)	0 (0%)	0 (0%)
St. Paul, MN	2002-2003	8,200 <sup>b</sup>	523 (6.4%) <sup>b</sup>	448 (85.7%) <sup>b</sup>	NI
	2003-2004	4,267	113 (2.6%) <sup>b</sup>	NI	92 (2.2%)
St. Louis, MO	2002-2003	3,968	278 (7.0%)	125 (45.0%)	38 (1.0%)
	2003-2004	3,482	131 (3.8%)	73 (55.7%)	18 (0.5%)
Albuquerque, NM	2003-2004	11,700	1,100 (9.4%)	1,100 (100%)	NI
New York, NY	2002-2003	220,000 <sup>b</sup>	6,400 (2.9%) <sup>b</sup>	1,507 (23.5%) <sup>b</sup>	NI
	2003-2004	267,714	26,395 (9.9%)	NI	6,979 (2.6%)
Toledo, OH	2002-2003	5,367	352 (6.6%)	NI	154 (2.9%)
	2003-2004	6,555	217 (3.3%)	NI	88 (1.3%)
Colleton, SC	2003-2004	2,263	122 (5.4%)	NI	10 (0.4%)

Figure 3. School Districts with Between 5% and 10% of Eligible Students Requesting NCLB Transfers in 2002-2003 and/or 2003-2004 School Years (continued)

District	School Year	Number of Eligible Students	Number and Percentage of Eligible Students Requesting Transfers	Number and Percentage of Transfer Requests Approved by District	Number and Percentage of Eligible Students Actually Using Transfers
Richland County I, SC	2003-2004	3,707	268 (7.2%)	268 (100%)	236 (6.4%)
Metropolitan Nashville, TN	2002-2003	1,001 <sup>d</sup>	52 (5.2%)	NI	46 (4.6%)
	2003-2004	620 <sup>d</sup>	28 (4.5%)	NI	NI

<sup>a</sup> Probably two years should be combined.

<sup>b</sup> Data from news article or other report.

<sup>c</sup> Perhaps none approved.

<sup>d</sup> Estimate.

#### I. States with 5% to 10% of Eligible Students Requesting NCLB Transfers

Two states, **Connecticut** and **Utah**, reported to the Citizens' Commission that statewide over 5% of eligible students chose to transfer to higher performing schools under the NCLB Act; however, they had relatively few students eligible for choice. Two other states also have extensive intradistrict and interdistrict choice programs (**Florida** and **Minnesota**) where well over 5%—maybe over 20%—of students are engaged in choice programs that make the NCLB Act program somewhat irrelevant. (See Figure 4.)

#### J. Districts with 3% to 5% of Eligible Students Requesting NCLB Transfers

The Commission also found many districts, 21, where between 3% and 5% of parents made

choices under the NCLB Act in the 2002-2003 and/or 2003-2004 school years. These districts had between 260 and 33,371 students eligible to make transfer requests. They included districts like **Orleans Parish, Louisiana** and **Patterson, New Jersey** where virtually no students actually transferred primarily because of a shortage of higher performing schools. (See Figure 5.)

#### K. States with 3% to 5% of Eligible Students Requesting NCLB Transfers

Four states reported to the Citizens' Commission that between 3% and 5% of eligible students chose to transfer to higher performing schools. It is interesting that all four are states formerly segregated under law. As we explore below, it appears that in a number of districts in these states the NCLB transfers are resulting in desegregation by race/ethnicity and income. (See Figure 6.)

Figure 4. States with Between 5% and 10% of Eligible Students Requesting NCLB Transfers in 2002-2003 and/or 2003-2004 School Years

State	School Year	Number of Eligible Students	Number and Percentage of Eligible Students Requesting Transfers	Number and Percentage of Eligible Students Actually Using Transfers
Connecticut	2002-2003	4,374	9 (0.2%)	7 (0.2%)
	2003-2004	4,374	288 (6.6%)	262 (6.0%)
Utah	2002-2003	6,829	204 (3.0%)	204 (3.0%)
	2003-2004	1,665	88 (5.3%)	88 (5.3%)

Figure 5. School Districts with Between 3% and 5% of Eligible Students Requesting NCLB Transfers in 2002-2003 and/or 2003-2004 School Years

District	School Year	Number of Eligible Students	Number and Percentage of Eligible Students Requesting Transfers	Number and Percentage of Transfer Requests Approved by District	Number and Percentage of Eligible Students Actually Using Transfers
Montgomery County, AL	2003-2004	4,370	193 (4.4%)	193 (100%)	193 (4.4%)
North Little Rock, AR	2002-2003	567	27 (4.8%) <sup>a</sup>	27 (100%)	27 (4.8%)
	2003-2004	3,036 <sup>b</sup>	49 (1.6%) <sup>b</sup>	49 (100%) <sup>b</sup>	49 (1.6%) <sup>b</sup>
Riverside, CA	2002-2003	2,696	98 (3.6%)	NI	92 (3.4%)
Colorado Springs, CO <sup>c</sup>	2002-2003	3,144	72 (2.3%)	72 (100%)	NI
	2003-2004	1,640	75 (4.6%)	75 (100%)	NI
Hartford, CT	2002-2003	1,688	0 (0%)	NI	0 (0%)
	2003-2004	1,688	54 (3.2%)	NI	33-39 (2-2.3%) <sup>d</sup>
Christina, DE	2003-2004	938	43 (4.6%)	NI	13 (1.4%)

Figure 5. School Districts with Between 3% and 5% of Eligible Students Requesting NCLB Transfers in 2002-2003 and/or 2003-2004 School Years (continued)

District	School Year	Number of Eligible Students	Number and Percentage of Eligible Students Requesting Transfers	Number and Percentage of Transfer Requests Approved by District	Number and Percentage of Eligible Students Actually Using Transfers
District of Columbia	2002-2003	10,000 <sup>e</sup>	212 (2.1%)	NI	148 (1.5%)
	2003-2004	10,000 <sup>e</sup>	357 (3.6%)	NI	197 (2.0%)
Hillsborough County, FL	2003-2004	2,348	NI	NI	106 (4.5%)
Miami-Dade County, FL	2003-2004	7,303	321 (4.4%)	321 (100%)	321 (4.4%)
Fulton County, GA	2002-2003	11,000	NI	NI	331 (3.0%) <sup>f</sup>
	2003-2004	NI	319	NI	227 <sup>f</sup>
Cedar Falls, IA	2002-2003	260	9 (3.5%)	9 (100%)	NI
Kansas City, KS	2002-2003	3,723	132 (3.5%)	132 (100%)	132 (3.5%)
	2003-2004	2,503	59 (2.4%)	59 (100%)	53 (2.1%)
Topeka, KS	2003-2004	305	12 (3.9%)	12 (100%)	12 (3.9%)
Orleans Parish, LA	2003-2004	33,371	1,108 (3.3%)	173 (15.6%)	37 (0.1%)
Howard County, MD	2002-2003	2,236	63 (2.8%)	NI	45 (2.0%)
	2003-2004	2,210	83 (3.8%)	NI	37 (1.7%)
New Bedford, MA	2003-2004	5,742	194 (3.4%)	NI	166 (2.9%)
Paterson, NJ	2002-2003	11,373	50 (0.4%) <sup>g</sup>	NI	5 (0%)
	2003-2004	11,000	360 (3.3%)	NI	0 (0%)
Plainfield, NJ	2003-2004	589	25 (4.2%)	17 (2.9%)	NI

Figure 5. School Districts with Between 3% and 5% of Eligible Students Requesting NCLB Transfers in 2002-2003 and/or 2003-2004 School Years (continued)

District	School Year	Number of Eligible Students	Number and Percentage of Eligible Students Requesting Transfers	Number and Percentage of Transfer Requests Approved by District	Number and Percentage of Eligible Students Actually Using Transfers
Aiken, SC	2003-2004	1,414	47 (3.3%)	NI	22 (1.6%)
Berkeley County, SC	2003-2004	2,457	112 (4.6%)	NI	112 (4.6%)
Richmond, VA	2003-2004	10,797	331 (3.1%)	199 (60.1%)	199 (1.8%)

<sup>a</sup> All data from one school for 8.2% of school.

<sup>b</sup> Combined.

<sup>c</sup> Data from news article or other report.

<sup>d</sup> Data received from school district is inconsistent.

<sup>e</sup> Approximate.

<sup>f</sup> Expected transfers.

<sup>g</sup> 248 actual requests but many were to ineligible schools needing improvement.

Figure 6. States with Between 3% and 5% of Eligible Students Requesting NCLB Transfers in 2003-2004 School Year

State	Number of Eligible Students	Number and Percentage of Eligible Students Requesting Transfers	Number and Percentage of Eligible Students Actually Using Transfers
Alabama	21,632	794 (3.7%)	750 (3.5%)
Delaware	6,387	195 (3.1%)	195 (3.1%)
Louisiana	40,371	1,891 (4.7%)	670 (1.7%) <sup>a</sup>
South Carolina	41,639	1,826 (4.4%)	1,708 (4.1%)

<sup>a</sup> One small district missing on actual transfers.

Figure 7. School Districts with Approximately 1,000 Eligible Students Requesting NCLB Transfers in 2002-2003 and/or 2003-2004 School Years

District	School Year	Number of Eligible Students	Number and Percentage of Eligible Students Requesting Transfers	Number and Percentage of Transfer Requests Approved by District	Number and Percentage of Eligible Students Actually Using Transfers
Chicago, IL	2002-2003	145,000 <sup>a</sup>	2,425 (1.7%)	1,170 (48.2%)	NI
	2003-2004	270,757	19,246 (7.1%)	1,097 (5.7%)	528 (0.2%)
Indianapolis, IN <sup>b</sup>	2002-2003	6,466	914 (14.1%)	486 (53.2%)	NI
	2003-2004	2,940	275 (9.4%)	275 (100%)	NI
New Orleans, LA	2003-2004	32,590	1,014 (3.1%)	NI	171 (0.1%)
Albuquerque, NM	2003-2004	11,700	1,100 (9.4%)	1,100 (100%)	NI
New York City, NY	2002-2003	220,000 <sup>a</sup>	6,400 (2.9%) <sup>a</sup>	1,507 (23.5%) <sup>a</sup>	NI
	2003-2004	267,714	26,395 (9.9%)	NI	6,979 (2.6%)
Syracuse, NY	2001-2002	6,349	1,035 (16.3%)	NI	551 (8.7%)
	2002-2003	5,928	918 (15.5%)	NI	472 (8.0%)
	2003-2004	4,645	995 (21.4%)	NI	616 (13.3%)
Columbus, OH <sup>b</sup>	NI	NI	1,500	NI	NI
Philadelphia, PA	2002-2003	NI	NI	NI	110
	2003-2004	NI	2,012	NI	916

<sup>a</sup> Data from news article or other report.

<sup>b</sup> Data unclear from submission.

## L Districts with More Than 1000 Students Requesting NCLB Transfers

There were eight urban districts where the Commission found approximately 1000 or more eligible students requested transfers in the 2002-2003 and/or 2003-2004 school years, but they made up a relatively small percentage of eligible students. In several, very few students actually transferred. These districts had between 4,645 and 300,000 students eligible to make transfer requests. (See Figure 7.)

## M. Districts where Over 90% of Students Requesting Transfers Were Low-Income

While in some places it appears the least poor families in a low-performing school chose to leave, this was not always the case. While the response rate was low, the Citizens' Commission found two states, **Connecticut** and **Utah**, and 16 districts that reported over 90% of transferring students were from low-income families. The districts were:

- Anchorage, AK
- Long Beach, CA
- Oakland, CA
- Bridgeport, CT
- Hartford, CT
- New Haven, CT
- Hillsborough County, FL
- Sumter County, GA
- Jefferson Parish, LA
- Orleans Parish, LA
- Springfield, MA
- Atlantic City, NJ
- Pittsburgh, PA
- Providence, RI
- Richland County #1 (Columbia), SC
- Kanawha County, WV

## II. Racial/Ethnic Group and Income Desegregation and Segregation

The Citizens' Commission identified several school districts where NCLB Act transfer *students quite clearly moved from schools segregated by both race and income to less segregated schools*. We usually did not have information about the family income level or achievement of the transferring students. However, we compared school-wide disaggregated data on enrollment and income between sending and receiving schools.

As the following charts show, often, but not always, the race/ethnic and income desegregation that took place involved transfers to schools that had significant proportions of minority and low-income students. However, the receiving schools were more diverse and, more importantly, higher performing than the sending schools. It also must be acknowledged that the sending schools remained just as segregated by race/ethnicity and income, and perhaps more so, after students transferred out to new schools.

Obviously, school districts with a very high proportion of minority students are unlikely to have NCLB student transfers result in racial or ethnic desegregation and desegregation by income may be minimal. In the next section we discuss the operation of the NCLB Act public school choice programs in **Chicago**, **New York City**, and **Philadelphia**. Significant numbers of transfer requests and/or transfer assignments took place in each city. The Citizens' Commission did not have enough data to determine how much, if any racial/ethnic and/or income desegregation took place. In smaller, highly racially/ethnically isolated school districts like several in **New Jersey**, sometimes no NCLB transfers took place.

Finally, several school districts reported to the Commission that virtually all students exercising the transfer opportunity under the NCLB Act were low income. However, because we did not have data on the schools they transferred to,

Figure 8. Examples of Racial and Socioeconomic Desegregation Through NCLB School Choice

District	School Year	Number of NCLB Transfers	Percentage of Eligible Students Requesting Transfers	Number of Sending Schools	Percentage of Students in Sending Schools Who Are Minorities	Percentage of Students in Sending Schools Who Are Low-Income	Number of Receiving Schools	Percentage of Students in Receiving Schools Who Are Minorities	Percentage of Students in Receiving Schools Who Are Low-Income
Palm Beach County, FL	2003-2004	387	(9.9%)	6 <sup>a</sup>	97% to 100%	83% to 93%	17	15% to 83%	7% to 64%
Alexandria City, VA	2003-2004	26	(13.5%)	1	85%	78%	4	46% to 66%	26% to 36%
Baltimore County, MD	2002-2003	93	(5.1%) <sup>b</sup>	3	96% to 98%	52% to 55%	17	5% to 89%	2% to 44%
	2003-2004	93	(7.1%)	3	96% to 98%	52% to 55%	24	5% to 66%	2% to 31%
Hamilton County, TN	2003-2004	484	(14.4%)	8 <sup>c</sup>	65% to 99%	82% to 98%	22	2% to 25%	3% to 65%
Tacoma, WA	2001-2002	1,076	(35.6%)	6	52% to 77%	73% to 92%	41	13% to 77%	7% to 89%
	2002-2003	565	(18.2%)	6	52% to 77%	73% to 92%	41	13% to 77%	7% to 89%
	2003-2004	253	(10.8%) <sup>d</sup>	5	60% to 77%	80% to 92%	42	13% to 77%	7% to 89%
Fort Wayne, IN	2003-2004	81	(5.5%)	2 <sup>e</sup>	65% to 80%	82% to 92%	11	26% to 50%	34% to 69%

<sup>a</sup> One special high school with a diverse student body of mixed incomes is apparently being reconstituted in some way. The following data is for the other three elementary schools and two middle/high schools.

<sup>b</sup> Of the 93 students transferring in 2002-2003 eight chose a school that was 89% minority and 44% low-income. The remaining transferees chose to attend schools ranging from 5% to 66% minority and 2% to 31% low-income.

<sup>c</sup> Six of the eight sending schools ranged in minority enrollment from 92% to 99% (virtually all African-American) and two had minority enrollments of 65% and 73%.

<sup>d</sup> While declining percentages of students have been making choices each year, we assume that some students who elect to remain in their receiving school do not repeat the choice process.

<sup>e</sup> Most of the NCLB transfers were from the one middle school identified for improvement to seven other middle schools. The sending school was 80% minority and 82% low-income.

Figure 9. Desegregation by Race/Ethnicity and Income in Alabama School Districts through NCLB School Choice 2003-2004 School Year

District	Number of NCLB Transfers	Percentage of Eligible Students Requesting Transfers	Number of Sending Schools	Percentage of Students in Sending Schools Who Are Minorities	Percentage of Students in Sending Schools Who Are Low-Income	Number of Receiving Schools	Percentage of Students in Receiving Schools Who Are Minorities	Percentage of Students in Receiving Schools Who Are Low-Income
Huntsville City	142	11.4%	3	85% to 99%	76% to 99%	14 <sup>a</sup>	8% to 64%	10% to 78% <sup>b</sup>
Jefferson County	44	10.3%	1	97%	92%	3	7% to 59%	24% to 46%
Russell County	30	28.3%	1	88%	93%	2	30% to 32%	63% to 65%
Talladega County	28	9.2%	1	95%	82%	5	37% to 61%	45% to 73%
Washington County	63	15.4%	1	93%	99%	3	22% to 39%	39% to 59%

<sup>a</sup> One school with no data.

<sup>b</sup> Only two schools over 50%.

we could not determine if there was an income desegregation affect. This was unfortunate because researchers have concluded that low income families believe their children will achieve at higher levels if they attend schools with more advantaged children.<sup>73</sup>

In spite of these data and demographic limitations, the Citizens' Commission found several interesting examples of desegregation through NCLB choice.

- **Palm Beach County, Florida** has 96 Title I schools in the 2003-2004 school year, of which six have been identified for improvement. One special high school with a diverse student body of mixed incomes is apparently being reconstituted in some way. The other three elementary schools and two middle/high schools ranged in minority enrollment from 97% to 100% (71% to 97% African American) and were 83% to 93%

low income. Students from these schools could choose to attend schools ranging from 16% to 78% minority and 7% to 64% low income. Students in the elementary and middle school grades had choices of four schools and high school students had choices of two schools. About 10% of the students chose to leave each of the five schools. (See Figure 8.)

- In **Alexandria City, Virginia** for the 2003-2004 school year 26 students chose to transfer out of its only school in need of improvement, a small school with an enrollment of 192 students. The sending school enrollment was 85% minority (African American, Hispanic, and American Indian) and 78% low-income. The four receiving schools had enrollments ranging from 36% minority and 66% low income to 26% minority and 46% low-income. (See Figure 8.)

Figure 10. Desegregation by Race/Ethnicity and Income in South Carolina School Districts through NCLB School Choice 2003-2004 School Year

District	Number of NCLB Transfers	Percentage of Eligible Students Requesting Transfers	Number of Sending Schools	Percentage of Students in Sending Schools Who Are Minorities	Percentage of Students in Sending Schools Who Are Low-Income	Number of Receiving Schools	Percentage of Students in Receiving Schools Who Are Minorities	Percentage of Students in Receiving Schools Who Are Low-Income
Berkeley County	112	4.6%	4	46% to 98%	68% to 99%	13	23% to 76% <sup>a</sup>	18% to 92% <sup>a</sup>
Charleston County	461	9.6%	10	68% to 100%	63% to 95%	19	13% to 100% <sup>b</sup>	12% to 99%
Greenville County	574	15.8%	8	49% to 98%	70% to 93%	9	11% to 52% <sup>c</sup>	4% to 55%

<sup>a</sup> Fourteen students transferred to a school almost as segregated by race and income as their sending school.

<sup>b</sup> Thirty-five students transferred to three elementary schools almost as segregated by race and income as the elementary schools they left.

<sup>c</sup> Ten students chose the one receiving school over 50% minority, but they moved into a less segregated school by race and income than their sending school.

- In **Baltimore County, Maryland** two elementary schools and one middle school were required to offer NCLB choice in 2002-2003 and 2003-2004. Transfers were possible to numerous schools. In 2002-2003 transfer students went to 17 different schools and in 2003-2004 they went to an additional 7. The three sending schools ranged in minority enrollment from 93% to 96% (mostly African American) and were 52% to 55% low income. A total of 93 students from these schools made choices in 2002-2003. Of these students 8 chose a school that was 89% minority and 44% low-income. The remaining choosers in 2002-2003 and all in 2003-2004 chose schools to attend schools ranging from 5% to 66% minority and 2% to 31% low-income. (See Figure 8.)

- In **Hamilton County (Chattanooga), Tennessee** about 14% of eligible students transferred out of eight schools identified as needing improvement in the 2003-2004 school year. Six of

the eight schools ranged in minority enrollment from 92% to 99% (virtually all African American) and two had minority enrollments of 65% and 73%. All eight had between 82% to 98% low income students. Schools receiving transfer students ranged from 2% to 25% minority and 3% to 61% low-income student enrollment. (See Figure 8.)

- In **Tacoma, Washington**, choice has been offered in schools identified for improvement for three years. While declining percentages of students have been making choices each year—35.6% to 18.2% to 10.8%—we assume that some students who elect to remain in their receiving school do not repeat the choice process. One elementary school apparently made adequate progress for two years and did not have to offer choice in 2003-2004. Only 36 students chose to transfer out of the other two elementary schools in 2003-2004. At the elementary school level there was modest desegregation by race/ethnicity

Figure 11. Transfer Data Provided by the Wood County, West Virginia School District

School Year	Number of Eligible Students	Number and Percentage of Eligible Students Requesting Transfers	Number and Percentage of Transfer Requests Approved by District	Number and Percentage of Eligible Students Actually Using Transfers	Number and Percentage of Transferring Students Who Were Low-Income
2002-2003	452	48 (10.6%)	48 (100%)	48 (10.6%)	21 (43.8%)
2003-2004	450	43 (9.6%)	43 (100%)	43 (9.6%)	24 (55.8%)

School Year	Number and Percentage of Transferring Students with Testing Data Given	First Quartile (lowest)	Second Quartile	Third Quartile	Fourth Quartile (highest)
2002-2003	45 (93.8%)	2 (4.4%)	6 (13.3%)	17 (37.8%)	20 (44.4%)
2003-2004	40 (93.0%)	6 (15.0%)	9 (22.5%)	11 (27.5%)	14 (35.0%)

and income. At the middle school level the many students transferring from three middle schools all transferred to schools with less concentration of minority and low income students, though they varied in proportion. (See Figure 8.)

- In **Fort Wayne, Indiana** most of the NCLB transfers were from the one middle school identified for improvement to seven other middle schools. The sending school was 80% minority and 82 % low income. The receiving schools ranged from 26% to 50% minority and 34% to 69% low income. (See Figure 8.)

- In **Alabama** the Commission found at least 5 districts where desegregation of minority and low-income students definitely took place: **Huntsville City, Jefferson County, Russell County, Talladega County and Washington**

**County.** There was probably some minority and low-income group desegregation in **Mobile and Montgomery** Counties, but we could not be sure. (See Figure 9.)

- While the situation is more complex than in **Alabama**, in at least three **South Carolina** districts students were also desegregated through the implementation of NCLB choice—**Berkeley County, Charleston County, and Greenville.** Most, but not all the transfers in **Spartanburg County** 7 resulted in some desegregation by race and income. There was also probably some minority and low-income group desegregation in **Richland County (Columbia).** (See Figure 10.)

The Commission also examined data in a few districts where the picture seemed mixed, but

where it was likely some racial/ethnic and income desegregation was taking place. These districts include **Denver, Colorado**; **Syracuse, New York**; and **Portland, Oregon**. In **Duval County, Florida** analysis of its elementary schools was inconclusive, but transfers from the two middle schools in need of improvement definitely resulted in racial and income desegregation.

In contrast, there have been anecdotal reports of a few diverse school districts experiencing an increase in minority group and income segregation through implementation of the NCLB transfer provision. (Where non-low-income students are transferring, they are likely to be from near-poor families.)

- Reed reports in a study of **Montgomery County, Maryland**: "...choice has not substantially changed either the school attendance patterns...nor induced significant policy change at the district level. In fact, the operation of NCLB choice at Title I schools may indeed exacerbate disparities in racial and economic attendance patterns." Reed further found that in the first year of the program, participants were "significantly whiter than the enrollments at the Title I sending schools and ... significantly less poor."<sup>74</sup>

## Student Achievement and the Choice to Transfer

Critics of the NCLB choice provision maintain that it encourages higher performing students to transfer out of schools identified as needing improvement. The Citizen's Commission obtained several newspaper articles and reviewed reports that described this phenomenon in specific places. It also received data about a

very few school districts where this was or is occurring.

- **Howard County, Maryland** is a school system with diverse student enrollment by race/ethnicity and income. Less than 4% of eligible students in low performing schools chose to transfer to another school under NCLB in the 2002-2003 and 2003-2004 school years. District officials do not believe that NCLB public school choice is working as it was intended because in Howard County fewer than 20% of eligible students who were both low-income and low achieving exercised choices. (In 2003-2004, 44% of transfer students were African American.)

- The **Wood County (Parkersburg), West Virginia** school district sent its state department of education similar data. It had one junior high school identified as needing improvement. In both the 2002-2003 and 2003-2004 schools years about 10% of the students chose under NCLB to transfer from the school. We do not know whether these are the same students for each year or whether they should be added together. The data presented by the district are in Figure 11.

Finally, the Commission reviewed studies where it was reported that higher achieving students were exercising choice under NCLB. They included the following observations:

- Betts and Dannenberg report that in **San Diego, California** "...it appears that so far students who are exercising choice under NCLB have achievement that is below average at their receiving school and above average at their original sending school."<sup>75</sup>



## Chapter 6

# School District Implementation Practices of the NCLB Act Public School Choice Provision

As detailed in the previous section, the Citizens' Commission estimates that parents apply to transfer about 5% to 6% of their children out of schools in need of improvement. The numbers are smaller in districts that appear to have overtly discouraged choice. The procedures and policies that districts use in implementing public school choice will have a continuing bearing on the volume of transfers. The Citizens' Commission findings follow below.

### I. Affirmative Outreach to Notify Parents

As noted earlier, NCLB explicitly requires school districts to notify parents when their children's schools are identified for improvement, corrective action or restructuring. In addition to explaining the public school choice option, the notification must outline what steps are being taken to improve student achievement in the school and describe opportunities for supplemental educational services if the school does not improve.

The Guidance issued by the U.S. Department of Education in December 2002 added requirements for districts about parent notification and procedures. The districts must identify the schools that parents may choose, including public charter schools; explain why the available choices may be limited; and describe the performance and quality of the schools that may

be chosen. Districts must send notices through the mail and also provide information through broader means. They must give parents ample time to make their decision and must not inconvenience parents in how they communicate their decision, e.g. parents should not have to appear in person.

### Citizens' Commission Findings

Most districts and several states that responded to the Commission's information requests included parent notification letters. Generally, school districts tried to comply with NCLB requirements to some extent. However, very few were overtly encouraging to parents about the opportunities offered by the school choice program and most did not meet all the parent notification criteria of the Act and Guidance. Only a few districts provided details about student performance or information on successful initiatives in the receiving schools.

As will be demonstrated below, districts often told parents about specific limits written into the NCLB law itself that would discourage low income parents from choosing another school, e.g. that free transportation must be provided only as long as the sending school remains in improvement status. A few districts went beyond NCLB choice requirements and, as with this example, agreed to provide free transportation until a student completed the last grade at the receiving school even if the status of the sending school changed.

Some critics of how NCLB public school choice has been implemented to date cite the extensive efforts in some districts to emphasize in parent letters the steps being taken to improve a school identified in need of improvement and the availability of supplemental educational services. While the Commission found several districts that seemed to be discouraging choice, we did not conclude that letters with this type of information generally fell into the category of “discouragers.” Indeed the NCLB law itself and federal Guidance require that districts include such information, and this information can help parents to make their decisions.

More specifically, the Commission found:

1. In places where there are large numbers of second language learners and parents whose first language is not English, many districts sent *letters to parents in two or more languages*. In **Palm Beach County, Florida** parent information is provided in English, Spanish, Haitian Creole, and Portuguese. For the 2003-2004 school year, **New York City** and **Philadelphia** sent letters to parents in 10 languages. Hawaii sent notices in 14 languages. **Anchorage, Alaska** translated choice materials into the four major languages of families. Numerous districts provided letters and materials in Spanish.
2. Several districts provided helpful additional guidance in the form of handbooks and brochures with questions and answers. These districts include **Little Rock, Denver, Miami-Dade** and **Palm Beach Counties**; the **District of Columbia**; **Montgomery County, Maryland**; **Columbus, Ohio**; **Portland, Oregon**; and **Richmond, Virginia**.
3. Many of the districts with the *richest set of positive materials* for parents are places where *open enrollment programs were already in place*, frequently as a result of desegregation plans or policies. They include **Denver**; **Hillsborough** and **Palm Beach Counties** in **Florida**; **Columbus, Ohio**; **Portland, Oregon**; and **Philadelphia**.
4. Several districts conducted *substantial, additional outreach activities*.
  - **New York City** centralized the process under a Director for Public School Choice and Student Placement. In addition to sending letters to parents, the district “placed automated telephone calls in ten languages, sent flyers home in backpacks, convened regional information sessions; sought help from some 20 community-based organizations; provided materials at local PTA meetings; established a chancellor’s hotline; set up a special website, and placed ads in community papers.”<sup>76</sup>
  - The **Metropolitan Nashville Public Schools, Tennessee** sent written notices and reminders to parents, held parent meetings and individual conferences, and made phone contacts and community/home visits.
  - The **Milwaukee** school district reported, “Although the transfer forms were translated into multiple languages, the Division of Bilingual and Multicultural Education called all LEP students’ homes to ensure parents understood their rights under the law to transfer their children to schools not identified for improvement.”
5. Few district letters met the requirement of an explanation of *how parents could help to increase student achievement*. Notable exceptions included **San José, California**; **East Baton Rouge, Louisiana**; **New York City**; **Charleston** and **Colleton County, South Carolina**; **Austin, Texas**; and **Clover Park, Washington**. Schools in **Montpelier, Clarke, Timberline, and Westside, Idaho** also informed parents about how they could support their children’s learning.

- In a September 2, 2003 letter to parents whose children attend a school in need of improvement, a **San José Unified School District, California** school principal wrote: “Parents can become involved in addressing the school’s academic issues by providing input on the Improvement Plan, Parent Involvement Policy, and School-Parents Compacts. Parents will share responsibilities to increase their students’ academic achievement by supporting their students’ learning in such ways as monitoring attendance, homework completion, television watching, nightly reading, volunteering in the classroom, and participating, as appropriate, in decisions relating to the education of their students.”
- In April 2003, the **Montgomery County, Maryland** Deputy Superintendent wrote to parents of students attending schools identified for improvement: “You can help by being involved on your school’s improvement team and other committees, including those established by the PTA. You can participate in parent education activities, attend parent-teacher conferences, and learn more about how to help your children at home and at school. We need all parents to be involved in order to achieve the rigorous academic standards set by Montgomery County Public Schools and the Maryland State Department of Education.”
- In the **Cincinnati, Ohio** letters to parents of students whose schools were in improvement status, principals cited President Bush’s “A Call to Action for Parents” and quoted his August 2001 speech: “Good education starts in the living rooms of the citizens of this country. It starts with a mom or a dad saying ‘you turn off the TV and practice reading.’ It means, get rid of the tube and get into the books.”
- 6. There were a few districts that wrote to parents that the NCLB public school choice program provided an opportunity for their children.
- In late August 2003, the **Huntsville City Schools, Alabama** wrote parents of students in three elementary schools identified as in need of improvement “about our new choice program beginning in the upcoming school year” and “To help you understand how the choice program can work for you....” provided questions and answers. In response to the first question about whether transfer is required, it stated “We’re providing parents with this opportunity as an option. The decision is entirely up to you, so you should base your decision on what you think is best for your child.” The letter encouraged parents to visit any of the 15 schools for which choices were offered. Over 11% of the parents chose another school and the district approved all the transfers.
- The **Portland** Public Schools used the first two paragraphs of letters of October 18, 2003 to parents of students in four schools needing improvement to describe in very positive ways the annual student transfer process and the priority that would be given to students from these schools in the next school year, 2003-2004.
- In March 2003, **Anne Arundel County, Maryland** principals of schools in need of improvement wrote to parents: “We hope that you will continue to support your child and school during the next school year, but we will also support you if you decide another school is right for your child.”
- In letters sent before the opening of the 2003-2004 school year, the **Denver, Colorado** Assistant Superintendent in charge of Title I wrote to parents of students in schools identified as needing improvement: “*Denver Public Schools has a long-standing tradition of offering families the freedom and flexibility to select the school or program that best*

*fits their children's educational needs. Since your child is currently enrolled in a school that has not made adequate progress, you may want to consider a change in schools for your child.*" [emphasis in original]

- In a recent letter of January 30, 2004, the Acting Superintendent in **St. Louis, Missouri** explained to parents choice opportunities under the pre-NCLB magnet schools and voluntary interdistrict transfer program as well as the NCLB choice program and said "The district has long supported School Choice....Please remember, Saint Louis Public Schools are continuing to make academic improvement and whatever your choice, our concern is that your child receives the best education possible."

## II. District Procedures that Inconvenience Parents

The Department of Education Guidance states clearly that parents should not be inconvenienced in making NCLB choices. Specifically, it gives as an example that "parents should not have to appear in person to state their choices."

### Citizens' Commission Findings

The Citizen Commission found several districts that told parents in their written notices that parents should *call their school principal or make an appointment* if they wanted to discuss the possibility of an NCLB transfer.

- In every letter to parents of the 20 schools identified for improvement in **Sacramento, California** an Associate Superintendent wrote to parents "If you think that you want to transfer your child to another school, please call the principal at [xxx-xxxx] for an appointment to discuss your options by September 16, 2003."

## III. District Failures to Inform Parents

Many districts notified parents too close to or after the opening of school and gave them a *very short time to make a decision*. The lateness of notice invariably occurred because of late state notification about schools in need of improvement. While these practices are discouraging, the Citizens' Commission is hopeful that there will be quick and dramatic improvement in state notification timelines and that this, in turn, will generate more effective choice procedures among districts.

### Citizens' Commission Findings

Some districts have overtly discouraged the exercise of public school choice under NCLB.

- A sample letter of August 8, 2002 from the Open Enrollment Director of the **Akron Public Schools, Ohio** tells parents that a transfer has been approved and that parents have to front the transportation cost: "Payment not to exceed \$170, payable at the end of the school year, will be provided to you in lieu of transportation. Please be aware that *transportation to the new school is your responsibility.*" [emphasis in original]  
In an undated form letter, probably sent a year later, the district modified its position slightly: "For the immediate future, you will need to provide for your child's transportation to school. We hope to be able to eventually transport your child on the Akron Public School bus. As soon as we determine if that is possible, we'll notify you. If we cannot include your child on an existing bus route, you will receive a monetary reimbursement for transportation costs."
- In May 2003, **Flint, Michigan** school officials sent letters to parents of students in schools not making AYP. The letter said parents had a right to move their children to

another school, “but stopped short of providing specific or more definitive directives on how the transfer would take place.” A phone number was provided if they had questions.<sup>77</sup>

- On January 3, 2003, the Superintendent of the City of **Woonsocket, Rhode Island** Education Department wrote to parents of students at an elementary school in need of improvement: “While I am required to make this well-intentioned program [choice] available to your child, please be advised that I have serious reservations about the implied benefits for your child.”

#### IV. Effects of Offering Supplemental Educational Services on Parents Decisions to Transfer Their Children to Another School

As noted earlier, NCLB offers two options to parents whose children attend schools in improvement status for two years. One is choice of another public school and the other is supplemental services free of cost. Almost always, parents must choose just one of these two opportunities. But the scenarios played out differently among districts.

##### Citizens’ Commission Findings

1. *Parent outreach activities* by districts appear to greatly affect parents’ decisions. We found several districts that engaged in vigorous outreach about supplemental services, including **Boston, Massachusetts** and **Providence, Rhode Island**.
- **Metropolitan Nashville Public Schools** sent clever flyers to parents in simple lan-

guage—for example: “Extra! Extra! Read All about It. Parents!!!! Our Offer To You!!! Your child is invited to attend reading, language, math, or writing tutoring sessions after school this year. The cost for your child to attend these classes may be as high as \$1,197 and *we will pay the provider* that you select.” [emphasis in the original] A brochure with paragraphs on each provider was enclosed.

2. *Whether or not supplemental services are provided at the school site* is important because NCLB does not require districts to pay for transportation to the service site.
3. Where schools are in the second year of improvement status, the availability of supplemental education services probably discourages some parents from choosing to transfer their children to other higher performing schools.

#### V. Transportation Cost

The provision of free transportation is key to ensuring that parents have real choice. Congressional concerns about the possibility that transportation costs would consume an excessive part of the Title I grants led to limits being placed, i.e. that no more than 15% of a districts’ allocated amount of Title I funds must be spent on the transportation costs of choice. Congress also limited the obligation of districts to pay for the cost of transportation for students who transferred to higher performing schools once their sending school was removed from improvement status, i.e. made AYP goals for two consecutive years. In other words, NCLB choice students were guaranteed a seat in their new school until its highest grade level, but they could be refused free transportation if their original school improved during this time.

## Citizens' Commission Findings

The Citizens' Commission found a wide variety of district behaviors concerning transportation costs for public school choice ranging from active encouragement of choice to violations of the law.

1. A few districts *pay transportation costs for all students* who live beyond a certain distance from school *no matter what school they choose* to attend and regardless of whether the choice was made under the NCLB provision, an open enrollment plan, or any other choice policy. For example:
  - **Columbus, Ohio** has had an open enrollment policy for more than 20 years, which grew out of its racial desegregation plan. Transportation is provided to all children living more than two miles from school. Placements from choice requests are determined by lottery. Beginning in the 2003-2004 school year, students in schools identified under NCLB as needing improvement got first choice in the lottery. There were 21 elementary schools listed in this improvement status and choice was offered among 72 schools. There were 10 middle schools in improvement and choices were offered among 18 schools. Approximately 1500 students applied for transfer under NCLB.
  - A sample **Albuquerque, New Mexico** elementary school choice form listed three receiving schools "with free school bus transportation" and offered for transfer every other elementary school, but stated parents must "provide your own transportation, and get reimbursed for mileage (per capita reimbursement)."
2. Some districts, like **Miami-Dade and Palm Beach Counties, Florida** *allow students to complete the last grade of the school* they transferred to *with free transportation* even if their sending school is removed from improve-

ment status. Other districts, like **Indianapolis**, allow students to use an existing bus route to the choice school after their sending school has been removed from improvement status.

3. At least one district promised *to find other funds to pay for the cost of transportation* if costs exceed the 15% set aside in Title I.
  - The **Palm Beach, Florida** district states, "If the cost of transportation exceeds the 15% cap from Title I funds, the cost of transportation will be covered by other allowable sources, including state and local funds."
4. Some districts face *dilemmas not intended by the NCLB Act that threaten equity* and act responsibly, if not by the letter of the law.
  - A **California** district has had an open enrollment program without free transportation. All schools in the district are diverse to varying degrees and none have large concentrations of low-income students. The district has a voluntary desegregation plan. In 2003-2004, two middle schools with 50-60% minority enrollment were identified in need of improvement for the first time. Parents requested transfers for about 62 students out of these schools but, only 10 students were low income. They all transferred to the one middle school, majority white, with an orchestra program. All the non-poor students requesting transfers were white.
 

The district did not pay the cost of transportation for the non-poor students, only for the 10 low-income students who were also low-achieving. The letter to parents stated that NCLB choice, with its free transportation, was only offered for students scoring at basic or below on tests. A few non-poor parents complained about not getting free transportation. But such parents had before been transferring to the school without it. A school official said she told these parents that "The Act is meant to serve low SES and low

achieving students.” She continued, “We’ve tried to faithfully implement the law.” She added that “The popular programs should have been put in schools with more minority students.”

5. Some districts *ignored the requirement for free transportation*.
- The **Detroit Public Schools** mailed forms to parents of students in schools needing improvement announcing the right to transfer in fall 2003. The letter said at the end that “If schools were located beyond the district’s established walking distance of 1.5 miles, then it would provide transportation from a central location to a new school within walking distance.” Only two schools were offered. “As of December 2003, *no students [out of 900 requests] had been transferred.*” [emphasis added] The reason was supposedly logistics and uncertainty about the real number of schools in improvement status.<sup>78</sup>
- While cursory letters were mailed to parents of students in schools identified for improvement in May 2003, the **Flint, Michigan** school system “has not transported any students using Title I funds; according to district officials, no parents have requested transportation for their children. In any case, [the district] currently plans to cease transporting **any** students in the coming year, because of budgetary pressures.”<sup>79</sup> [emphasis added]

## VI. Information about Schools Receiving NCLB Transfer Students

Parents can not make wise decisions about the best educational environments for their children without useful, clear information about their options. However, most districts do not pro-

vide detailed information about schools eligible to receive transferring students other than the fact that they have higher student achievement. Indeed, many districts provide details about new and/or current extra services, programs, and other efforts, e.g. reduced class sizes, reading coaches, found at the struggling school and a clear statement that such services and programs are not at the eligible receiving schools. They neglect to explain why the receiving schools are doing better than the sending schools. But there are some districts that do a good job of describing receiving schools.

### Citizens’ Commission Findings

A few districts *provided information on student achievement* in schools allowed to receive NCLB student transfers. Besides those below, **Clarke County, Georgia; Caddo Parish, Louisiana; St. Louis, Missouri; Colleton County, South Carolina; and Kanawha County, West Virginia** sent parents such helpful information.

- The **Mobile, Alabama** school system notified parents that seven schools identified for improvement were paired with higher performing schools for the purposes of NCLB public school choice. Students in the three high schools could choose among seven high schools with an “A” or “B” grade on the Alabama High School Graduation Exam. The two elementary and two middle schools were allowed to choose among 11 elementary and eight middle schools scoring at or above 50% on the partial battery of the SAT 10.
- The **Hillsborough County (Tampa)** school district combined its controlled choice desegregation plan with the NCLB public school choice program, but offered Early Controlled Choice for NCLB students eligible for transfer. In the choice forms sent to parents it listed information about the schools, always more than two, that could be selected for transfer: whether or not the school receives Title I funds, its percent ca-

capacity enrollment, its letter grade under the Florida accountability system, and the distance to the school from the sending school.

## VII. Denials of Requests Because of Lack of Capacity

An exemption from Title I school choice requirements based on lack of capacity was eliminated from federal law with the passage of NCLB. Subsequent guidance from the U.S. Department of Education is very clear. Specifically, the December 2002 guidance states:

*The bottom line, then is that every student enrolled in a Title I school in improvement who wishes to transfer to a school that is not in need of improvement must have that opportunity. Thus, if an LEA does not have sufficient capacity in the school it has offered under its choice plan to accommodate the demand for transfers, the LEA must create additional capacity or provide choices to other schools. (E-7)*

*LEAs have broad latitude in determining which transfer options to offer....They may, for example, consider health and safety factors....However, ...lack of capacity and health and safety concerns—including overcrowding problems—do not excuse an LEA from meeting the Title I public school choice requirement. (E-10)*

*A limited number of LEAs may find there are no schools available to which students can transfer. [They can explore interdistrict transfers.]....[W]here there is only one school in the district or when the rural or isolated nature of an LEA prevents choice....the LEA may offer supplemental educational services. (E-12)<sup>80</sup>*

In additional guidance issued February 6, 2004, the Department listed 10 specific ways that

districts could “create additional capacity” if they do “not have the physical capacity to offer transfers to all eligible students.” These include reconfiguring unused space in receiving schools; reallocating portable classrooms; redrawing attendance zones; creating satellite divisions of receiving schools; creating new, distinct schools with separate faculty in the schools needing improvement; encouraging the creation of more charter schools; developing distance learning programs; modifying the school day or calendar through “shifts”; and encouraging interdistrict transfers or arrangements with private schools.

However, many districts continue to use lack of capacity as a defense, ignoring the NCLB language and guidance.

### Citizens’ Commission Findings

1. Many districts continue to *deny NCLB transfers because of lack of capacity*. They include **Long Beach and Los Angeles, California; Chicago, Illinois; Orleans Parish, Louisiana; Atlantic City, Elizabeth City, Newark, Orange, and Paterson, New Jersey; Providence, Rhode Island; Richmond, Virginia** and many more.
  2. Many districts also put parents on *notice that lack of capacity might be a reason to deny approval of requests but end up approving all requests*. Such districts include **Sumter County, Georgia; East Baton Rouge, Louisiana; and Albuquerque, New Mexico**.
  3. Some districts *refuse to use capacity as a reason to deny NCLB transfers*.
- The **Palm Beach County** district booklet on its choice programs states “The district will not use lack of capacity to deny students the option of transfer. If necessary, the District will find ways to increase capacity in higher achieving schools.”

- In 2003-2004, the **New York City** school system offered transfers under NCLB to 267,714 students, 26,395 (9.9%) of whom requested transfers. The district approved all the requests which resulted in overcrowding in several schools. There were 6,979 students who actually transferred. While this caused considerable grumbling, a school official reported that the schools will go on double sessions and ask both students and teachers to choose which session they want to attend/work in.<sup>81</sup>
- The **Portland, Oregon** school district has had an open enrollment program for 20 years with choices approved by lottery and no free transportation, except from one high school for desegregation purposes. For 2003-2004 it offered NCLB transfers from three high schools and one middle school in need of improvement and 800 students elected to transfer. There were complaints from the receiving high schools because class sizes were increased. Class sizes were lowered in the sending schools. Next year, there will be some relief because state and local Average Daily Membership funds for the transferring students will move to the new schools.
- **Indianapolis Public Schools** told parents in a letter of April 4, 2003 that choices they might make between two schools were guaranteed to be approved. It said, "There will *not* be a waiting list." [emphasis in original]
- 4. A few districts addressed the capacity issue by making *other arrangements to give priority to students transferring under the NCLB Act*.
- When it implemented the NCLB choice program, the **Anne Arundel County, Maryland** Public Schools informed parents at schools eligible to receive student transfers from schools identified for improvement about priority for these transferring students. Specifically, a March 6, 2003 letter from the principal said "Jessup will not grant Out-of-

Area transfers for the 2003-2004 school year until all Title I transfers have been determined, which will not occur until May 20, 2003. Therefore, parents whose students attend (or plan to attend) Jessup on an Out-of-Area transfer basis should make plans to return to their home schools next year. If space is available at Jessup after Title I transfer decisions have been made, priority will be given to children in the highest grade who have been at Jessup the longest. A second priority will be given to siblings who attend Jessup on an Out-of-Area transfer."

## VIII. Need for an Adequate Number of Transferee Schools

The biggest factor in the success of the public school choice provisions under NCLB is the ratio of the number of schools in a district identified in need of improvement to the number making AYP and not in need of improvement. However, this operates in different ways under differing circumstances.

### Citizens' Commission Findings

1. In many urban school districts *the number of schools in need of improvement is so large that there literally are not enough successful schools from which to choose*. This problem is likely to get worse in many places. In **Harrisburg, Pennsylvania** all 18 schools that are open in the 2003-2004 school year are identified as needing improvement. **Orleans Parish, Louisiana** also has few schools not identified for improvement. However, even with these severe challenges, some urban districts attempted to offer a degree of choice in good faith and met with some success.
- The number of **Philadelphia** schools identified as in need of improvement has grown

from 10 in the 2002-2003 school year to 176 in 2003-2004 to 195 (including all high schools) in 2004-2005 (which is already known) out of 264 schools. In 2003-2004 there were 1,240 seats available in regular schools, 2,000 in charter schools, and 3,000 in magnet schools. Despite limited options, the Superintendent has been a strong proponent of public and private school choice.

In a letter to parents dated March 28, 2003, the Superintendent wrote that NCLB “calls for providing parents with more educational choice for their children as a way of improving the overall quality of public education. Here in Philadelphia we provide educational choices to parents in many ways: Voluntary Transfer Program, ... Desegregation Program, ... High Admission Program, [and] ... School Choice Program — Students in School Improvement Schools may apply to schools not in School Improvement. As you can see, the School District of Philadelphia has an extensive voluntary transfer program in place.” A small proportion of eligible parents, 2,012, requested transfers for their children, and 916 (45.5%) of them were approved.

- **Chicago** is another district which has policies for open enrollment, but where the supply of good schools is greatly outnumbered by the number of low performing schools. Some experts believe it has the largest choice program in operation, mostly through magnet schools. A 2001 Chicago study reported that the 12 “least popular” high schools lost between 62% and 77% of the students in their attendance areas. They were generally higher performing students. This pattern predated the NCLB transfers.<sup>82</sup>

In the 2002-2003 school year only 24,000 out of 132,000 students who applied for magnet programs were accommodated.<sup>83</sup> The district, which was hostile to the NCLB program, persuaded state legislators to pass a law exempting magnet and other types of schools from accepting NCLB transfers.<sup>84</sup>

From district reports and news articles the Commission concluded that out of 270,757 eligible students 19,246 (7.1%) requested transfers for 1097 available seats. Apparently, parents took the approved transfer option for only 528 (0.2%) students.

2. In many small, often rural school districts with *only one school for each grade level or where all schools are identified for improvement, there are no other schools from which to choose*. **Kansas** had 17 such schools that could not offer choice. **Alaska** had 17 schools in remote villages without access to another site for transfer. About 90% of all local districts in **Nebraska** have one school per grade level.
3. Another factor that significantly affects the number of schools identified for improvement is *whether or not middle and/or high schools receive Title I funds*. In districts like **Philadelphia** all such schools are identified in need of improvement and receive Title I, while in **Metropolitan Nashville** and many other places no middle or high schools are in improvement status because they receive no Title I funds.
- Next year the **Portland** Public Schools are considering not funding middle and high schools with Title I funds, except for the two middle schools with over 75% low-income students, which the district *is required by law* to fund. It wants to use Title I to strengthen its preschool and elementary school programs. It may redistribute desegregation program funds to the middle and high schools. It may also try to find ways to continue to pay the transportation costs for the students who chose other schools this school year under NCLB.
4. The Commission learned of one district, **Escondido, California**, that has removed Title I funds from two of its four schools iden-

tified for improvement in order to avoid the NCLB choice requirements.

- According to the January 2004 report of the Center for Education Reform, in the 2002-2003 school year 180 **Escondido** students (12%) out of 1500 eligible students chose to transfer under NCLB. But things have changed since then. The February 13, 2004 edition of a California newsletter, "Political Pulse's Education Beat," reported that the district "angered some parents by rejecting Title I funding for two low-performing schools, avoiding federal regulations that require the district to allow students to transfer out of such schools if they take federal dollars." A father told the *North County Times*, "There has been all this talk about how parents will have more choices, more control. It's a lie. There is not parent control. ... If the district wants to control where your kid goes to school, they'll find a way to do it no matter what the law is."

The district has denied transfer requests from the two low-performing schools that lost Title I funds. The Superintendent told the newspaper that he agrees with the objective of NCLB that requires such transfers, but that the "money provided by the federal government under the law doesn't cover the cost of providing portable classrooms for the students who want transfers."

5. *In many medium sized cities as well as suburban school districts, there are many higher performing schools to which students in schools needing improvement may transfer. Several of these districts offered choices of all of their higher performing schools to their handful of schools needing improvement.*

## IX. The Relationship Between State and District Public School Choice Programs and NCLB Choice

As noted above, 31 states and Puerto Rico allow districts to establish intradistrict open enrollment policies and 19 states and Puerto Rico require the allowance of interdistrict transfers. Two states have particularly well known statewide choice programs — an intradistrict one in **Florida** and an interdistrict one in **Minnesota**. At least four states subsidize transfers for low-income students. Many districts operate open enrollment programs, several of which are outgrowths of previous desegregation plans.

### Citizens' Commission Findings

In states that have adopted statewide intradistrict and/or interdistrict choice programs, especially when transportation is provided for low-income students, it is difficult to distinguish between these state program transfers and NCLB Act transfers. In the Commission's view, this is not at all problematic, since the result is the same — expanded educational opportunity.

1. *In some states where there are established choice programs the NCLB choice provisions have had little affect.*

- In 1985, **Minnesota** passed its first public school choice legislation. In 1988, Minnesota became the first state to enact statewide interdistrict public school choice. Transportation costs are paid for all students involved in intradistrict transfers. While everyone has the option for interdistrict transfers also, only partial transportation costs are reimbursed to low-income families. However, transportation for desegregation purposes is an exception — all costs are paid.

The proportion of students involved in statewide school choice programs, including

charter schools, increased from 1% in 1988-89 to about 17% in 2000-2001 mostly due to the large increase in the popularity of alternative schools. (This does not include district-run choice programs like magnet schools, etc.) During these 13 years, use of public school choice options increased 1,300% while state overall enrollment increased approximately 17%.<sup>85</sup> Today, it is estimated that 30% of Minnesota students are choosing their schools either in the district of residence or outside.<sup>86</sup> Consequently, it is not surprising that that state education officials reported on their Consolidated Report for the 2002-2003 school:

*Minnesota has long had a statewide open enrollment policy that has permitted movement of students across buildings and districts, without needing to indicate reasons, so the impact of School Choice provisions may not be immediately obvious, especially in two of our large urban districts which have sophisticated open enrollment procedures in place.*

2. In other states with more recent choice programs the effect of the NCLB choice provisions may be additive, though this is hard to document definitively.
- In June 1999, **Florida** adopted the A+ Plan for Education, which offers state-paid tuition scholarships for children in failing public schools to attend a public, private, or religious school of choice. The legislation established a grading system for public schools based on test scores on the Florida Comprehensive Assessment Test. Students at schools receiving a grade of “F” for two years in a four-year period were allowed to transfer to a higher-scoring public school or a private school with an Opportunity Scholarship, valued at the state per-pupil expenditure or the tuition and fees of the private school, whichever is less.<sup>87</sup>

The Opportunity Scholarship choice program was adopted after many years’ experi-

ence with desegregation plans in several **Florida** school districts. While court oversight has ended in most of them, often they have chosen to implement an open enrollment or controlled choice program that maintains desegregation.

The number of students using Opportunity Scholarships jumped from 45 in 2001 to 575 in 2002. In 2002, 80 schools received failing grades; for 10 of these schools, it was their second “F.” Of 9,000 students affected, 900 (10%) used Opportunity Scholarships to transfer to other public schools, and 577 (6.4%) used them to transfer to private schools.<sup>88</sup>

The Commission found in reports from **Duval** and **Palm Beach Counties** that apparently over 10% of students in schools in need of improvement — a total of 837 students — chose other public schools under NCLB choice in 2002-2003 and 2003-2004 school years. This number is close to the 900 students in the Florida program cited above. While no doubt many of these students participate under both the Opportunity Scholarship and NCLB choice programs and may be eligible to transfer under controlled choice programs, there are many more transfers in other, larger counties taking place also. Consequently, we believe that NCLB may have given a boost to public school choice in Florida.

## X. Interdistrict Transfers

Unlike the intradistrict choice requirement, control of interdistrict choice lies wholly with the school district. A district with too few higher performing schools to offer as choices for students in schools needing improvement must establish, “to the extent practicable ... a cooperative agreement with other [districts] in the area” for transfers.<sup>89</sup> In addition, if the entire district has been designated by the state under Title I as being in need of improvement, the state

agency has the option of authorizing students to transfer to higher performing public schools in other high performing districts.<sup>90</sup> **Baltimore; Buffalo; Denver; Philadelphia; Richmond; Rochester; Tucson; and Washington, D.C.** are among the large, urban districts placed in improvement status by their state agency.<sup>91</sup>

## Citizens' Commission Findings

While many districts around the country with inadequate numbers of high performing schools asked neighboring districts if they would take transfer students from schools in their districts, we found no such transfers taking place under the NCLB Act, with the exception of one small, short-lived transfer in **Alaska** and transfers in **New Haven, Connecticut** in 2003-2004.

Such legislative phrases as “to the extent practicable” and “option of authorizing” unaccompanied by any legislative incentives or mandates are unlikely to produce results. The tragedy of this is that in many, though not all, areas of the country (particularly **Connecticut, Illinois, Massachusetts, Michigan, New Jersey, Ohio, and Pennsylvania**), heavily minority and low-income school districts are surrounded by affluent, heavily Anglo/white districts with higher performing schools.

More specifically, the Citizens' Commission found:

1. *Many students in the country are transferring between districts* for purposes other than those explicit in NCLB, including desegregation and desires for specialized programs. While the Commission could find no official estimate, estimates are that **Colorado** has 30,000 interdistrict transfers,<sup>92</sup> **California** has 130,000, **Michigan** has 43,756, **Minnesota** has 28,000, **Wisconsin** has 4,300, and **St. Louis** has 13,000. It appears then that the number is well over one-half million. **Delaware** and **Nebraska** each have 6.5% of their students attending school outside their district of residence.<sup>93</sup>
2. In some places it appears that students from Title I schools in need of improvement may be excluded from state or regional interdistrict choice programs solely because they are from low performing schools.
  - In its submission to the Citizens' Commission, **Elizabeth, New Jersey** enclosed several documents. On one page the district reports: “Other options for choice were explored but Elizabeth does not have a charter school located in the area and the county choice school, Kenilworth, did not have any available seats in the appropriate grades for Elizabeth's eligible students.” Yet, on a separate report to the state, the Supervisor of Grants reports: “No schools were available for intra-district choice in 2002-03. Some Elizabeth students did attend the county's choice school, Kenilworth — but they are not from Category I schools. Therefore, their attendance at the county's choice school is not based on their school's need for improvement.”
3. In two districts there were *NCLB interdistrict transfers*.
  - In **Northwest Arctic Borough, Alaska** there were two students in a remote site who wished to transfer to another village. The district arranged for their transfer, including airfare and boarding home stipend for a sponsor family. The students remained in their new school for only one semester.
  - In **New Haven, Connecticut** there was one school in need of improvement. Students in this school were offered choices among 20 possible receiving schools, including six interdistrict magnet schools. More than 16% of the eligible students chose higher performing schools. The Commission does not know how many chose the schools outside of New Haven. It should be noted that a state case, *Sheff v. O'Neill*, required an interdistrict desegregation remedy in **Hart-**

ford, relying on guarantees of equal educational opportunity in the state constitution.

4. In letters to parents in two school districts, we found reference to a specific *interdistrict transfer possibility*, but we were unable to document that any such transfers took place.
- The **Jersey City** school district sent short, but positive letters to parents in August 2002 September 2003 and offered interdistrict transfer with **Hoboken**. Specifically, it said it had expanded its “Open Enrollment Standard Operating Procedures to accommodate the new federal law....” After noting that “capacity of the receiving schools is extremely limited,” it also offered choice to Jersey City charter schools “or to have the student attend a public school in the Hoboken school district under the program of interdistrict choice.”
- In **Colorado**, the **Yuma School District** said in a letter to parents of November 24, 2003 that it had made arrangements for students at Yuma Middle School, a school in need of improvement to choose an interdistrict transfer with a neighboring district, **Liberty School District**, to attend Abarr School.
5. Numerous newspaper accounts, official reports, and responses to the Citizens’ Commission make clear that *in a number of areas school districts rejected requests for NCLB transfers from nearby districts*.
- News articles in fall 2003 reported on requests of districts in **Pennsylvania** and **New Jersey**, including **Philadelphia** and **Chester Upland**, to surrounding districts about the possibility of interdistrict transfers for students in schools in need of improvement. None got a positive response.<sup>94</sup>

While two of the three responses sent to the Commission by **Chester-Upland** were brief and said nothing about space limita-

tions, a third from the **Interboro** school district was more forthcoming:

*Unfortunately, the Interboro School District is not able at this time to commit to the acceptance of additional non-resident students. Limited space, already higher than desirable class size, as well as financial constraints makes the acceptance of even a moderate number of non-resident students prohibitive at this time. On a personal note,...I am fully supportive of the noble intent of the No Child Left Behind legislation. My concern, however, is the false impression that may undoubtedly result when parents are led to believe that they must leave their home district in order for their children to be kept from being ‘left behind.’ I am well aware of many excellent individuals who live and work in the Chester Upland School District and the often-ignored success stories that have come from the Chester Upland Schools.*

**Philadelphia** has 74% of its schools in improvement status. Having been denied interdistrict public school transfer opportunities, the Superintendent is trying now to make arrangements for students from troubled public schools to transfer into Catholic archdiocesan classrooms that have space and are willing to accept them.

- On July 11, 2003 the **Orleans Parish, Louisiana** Superintendent wrote to **Plaquemines Parish** that because no choice opportunities were available for New Orleans middle and high school students, “we are requesting that our middle and high school students be allowed to have as an option the ability to attend public schools in Plaquemines Parish. Please be reminded that if you choose to assist in providing our students with a Choice option, transportation for these students will be provided.” No New Orleans students were accepted as transfer students.

The **Richmond, Virginia** school system, a district deemed in need of improvement

by the state, reported on a state form “Letters were sent to neighboring school divisions. **Chesterfield, Henrico and Hanover** school divisions indicated they could not accept transfers.” [emphasis added] In 1972, a federal district court had ordered a merger of Chesterfield and Henrico Counties with Richmond for desegregation purposes, but the remedy was not sustained in the Supreme Court.

- According to a December, 2003 article in the Washington Post a small, low-income, African American school district, **Weldon, North Carolina** asked its neighbor, **Roanoke Rapids**, to allow interdistrict transfers of its students. Roanoke Rapids officials refused because it would “create an administrative nightmare.”<sup>95</sup>
- 6. In at least one instance, districts surrounding a district with several schools in need of improvement *were willing to accept transfers, but they were not requested to do so.*
- According to a news article, **Rockford, Illinois** has 18 schools identified in need of improvement enrolling 6500 students. During the 2002-2003 school year 117 of 1600 eligible students requested transfers. As of September 2003, there were transfer requests for 250 of 6500 eligible students for the 2003-2004 and the number was expected to climb. The Superintendent said, as reported in the article “most students would not be able to transfer this year because schools were at capacity and classroom sizes could not be increased because of the contract with the teachers.” The Superintendent also said she never contacted surrounding school districts. Yet when the newspaper made such contacts, three districts said they were willing to discuss the possibility of accepting transfer students from Rockford.<sup>96</sup>
- 7. One state, **North Dakota**, reported “If and when a school reaches year seven in the program improvement timeline, they *would be required to offer school choice across district boundaries to another contiguous district.*” [emphasis in the original] For the 2003-2004 school year there are 23 schools in need of improvement, but all are districts with just one school and are unable to offer choice.
- 8. Even in states like **Minnesota** *with well established interdistrict choice programs there were students whose requests for transfers could not be met.* Apparently only half of 9200 students requesting interdistrict transfers have gotten them.<sup>97</sup>
- 9. In other states, like **California** and **Michigan**, where researchers have documented competition for students among districts and there are interdistrict choice policies, *nothing has been done to encourage the use of this option* by providing state-funded free transportation for low-income students or by promoting the free transportation incentives of the NCLB Act choice provisions.
- 10. There are states (e.g. **Connecticut** and **Delaware**) and urban school districts (e.g. **Hartford, Connecticut; Boston; St. Louis**) where a voluntary transfer provision operating as part of a desegregation plan works effectively in a similar manner as intended under the NCLB Act. St. Paul also reported that “Parents may also apply to transfer to three *interdistrict* schools. ... These are provided through cooperative agreements among participating school districts.” Minneapolis operates in the same way.
- St. Louis, Missouri operates the largest interdistrict choice program as a result of the settlement of a metropolitan desegregation lawsuit brought by the NAACP. Approximately 13,000 African American students from St. Louis attend schools in 16 subur-

ban school districts. Transportation is free and costs of the program are covered by the state.

## Chapter 7

# Challenges to Effective Implementation of the NCLB School Choice Provisions

While the Commission believes the public school choice provisions of NCLB are an important means for improving student achievement, there are significant challenges to effective implementation. Some are legitimate obstacles with which educators at all levels will need to struggle and resolve. Others result from bad faith implementation. A third set are derived from shortcomings in the law itself.

### I. Implementation Hurdles to Resolve

As the Commission reviewed state and district submissions, news articles, and research studies, it found several challenges for school districts concerning the NCLB public school choice program. Among those explored in the previous chapter are school capacity, transportation costs and distances, and budget issues. Many districts are successfully resolving these problems. Two challenges will take special effort.

#### A. Designing and Implementing Stronger Parent Outreach Initiatives

As discussed above, the Commission found several school districts with rich materials explaining their open enrollment and NCLB choice programs and an array of activities to engage parents. But we also found many districts just

“going through the motions” of implementing the NCLB provisions. Yet public opinion polls and anecdotal reports describe large numbers of low income and minority parents favoring opportunities to enroll their children in higher performing schools. Barriers posed by school officials may account for a large part of the disparity between parents’ expressed desires and actual exercise of choice.

By contrast, however, school districts that have operated successful desegregation choice programs could serve as models for districts grappling with how to implement the NCLB choice provisions. For example, in **St. Louis**, a Voluntary Interdistrict Choice Corporation (VICC) has had nearly two decades of experience in conducting parent outreach, recruitment and counseling on options, and on working with administrators and educators in both sending and receiving schools.<sup>98</sup>

#### B. Improving School Achievement Among NCLB Transferring Students

An important emerging issue is the fear among educators in schools receiving NCLB transfer students that test scores will go down and that their schools will eventually be unable to meet adequate yearly progress goals. For example, a news article last summer on **Chicago** schools reported “This past school year, schools that took in “choice” students were more likely to see test score drops than the system as a whole, with

declines most severe in schools that received 15 to 29 students....” However, a more recent article reports that students who transferred made substantial gains in reading and math, and, significantly, that “moving low-scoring kids to better-performing schools” didn’t adversely impact the receiving schools’ progress.<sup>99</sup>

It is too early to know whether this is a false alarm. For now, the number of students choosing to transfer is small. But even if it grows, there is considerable research demonstrating that low achieving students do turn around their educational performance when they are taught by highly qualified teachers in higher performing schools.

Some observers are advocating that supplemental educational services be made available to low achieving students during the first year a school is identified as needing improvement with choice being made available a second year. Presumably then, transferring students would arrive at their new schools with stronger skills.

## **II. Challenges for Parents and Advocates Because of Bad Faith Implementation and Resistance**

In many communities and states, educators and policymakers oppose NCLB public school choice provisions and covertly, and sometimes overtly, resist it. Often this is evident in the cold tone and brevity of letters offering choice opportunities to parents. Other times it appears in letters extolling the extra services available in schools identified for improvement and empha-

sizing that new supplemental educational services will not be provided in schools receiving transfer students.

## **III. Limitations in the NCLB School Choice Provision**

As we discussed above, the Citizens’ Commission believes there are two very serious limitations in NCLB itself that discourage public school choice. The first is language removing a district’s obligation to pay for transportation of students who transfer to higher performing schools once their sending school is removed from improvement status, i.e. makes AYP goals for two consecutive years. The second is the total lack of incentives to encourage interdistrict transfers where feasible. However, there is nothing prohibiting states and districts from voluntarily funding continuing transportation or establishing incentives such as allowing local and state funds to follow students immediately to their new schools.

---

With more experience, vigorous enforcement/implementation and hard work, the Citizens’ Commission believes many of the challenges to effective public school choice for students in low performing schools will be resolved. As we noted above, public school choice is here to stay and that is good news for the nation’s students.

## Appendix A

## Transfer Information Obtained From States and Jurisdictions

State or Jurisdiction	School Year	Provided Data on Students Eligible for and Requesting NCLB Transfers	Provided Data on Students Eligible for; Requesting and Actually Using NCLB Transfers	Provided Parental Notification Letters
Alabama	2002-2003			x
	2003-2004	x	x	
Alaska	2002-2003			
	2003-2004			
Arizona	2002-2003			
	2003-2004			
Arkansas	2002-2003			
	2003-2004			
California	2002-2003			
	2003-2004			
Colorado	2002-2003			x
	2003-2004			
Connecticut	2002-2003	x	x	x
	2003-2004	x	x	
Delaware	2002-2003			x
	2003-2004	x	x	
District of Columbia	2002-2003	x	x	x
	2003-2004	x	x	

State or Jurisdiction	School Year	Provided Data on Students Eligible for and Requesting NCLB Transfers	Provided Data on Students Eligible for, Requesting and Actually Using NCLB Transfers	Provided Parental Notification Letters
Florida	2002-2003			x
	2003-2004			
Georgia	2002-2003			
	2003-2004			
Hawaii	2002-2003			x
	2003-2004			
Idaho	2002-2003			x
	2003-2004			
Illinois	2002-2003			
	2003-2004			
Indiana	2002-2003			
	2003-2004	x	x	
Iowa	2002-2003			
	2003-2004			
Kansas	2002-2003			x
	2003-2004			
Kentucky	2002-2003			
	2003-2004			
Louisiana	2002-2003			x
	2003-2004	x	x	
Maine	2002-2003			
	2003-2004			

State or Jurisdiction	School Year	Provided Data on Students Eligible for and Requesting NCLB Transfers	Provided Data on Students Eligible for, Requesting and Actually Using NCLB Transfers	Provided Parental Notification Letters
Maryland	2002-2003	x	x	x
	2003-2004	x	x	
Massachusetts	2002-2003			
	2003-2004			
Michigan	2002-2003			
	2003-2004			
Minnesota	2002-2003			
	2003-2004			
Mississippi	2002-2003	x	x	x
	2003-2004	x	x	
Missouri	2002-2003			
	2003-2004			
Montana	2002-2003			
	2003-2004			
Nebraska	2002-2003			
	2003-2004			
Nevada	2002-2003			x
	2003-2004			
New Hampshire	2002-2003			
	2003-2004			
New Jersey	2002-2003			x
	2003-2004			

State or Jurisdiction	School Year	Provided Data on Students Eligible for and Requesting NCLB Transfers	Provided Data on Students Eligible for, Requesting and Actually Using NCLB Transfers	Provided Parental Notification Letters
New Mexico	2002-2003			
	2003-2004			
New York	2002-2003			
	2003-2004			
North Carolina	2002-2003			
	2003-2004			
North Dakota	2002-2003			
	2003-2004			
Ohio	2002-2003			x
	2003-2004			
Oklahoma	2002-2003			
	2003-2004			
Oregon	2002-2003			
	2003-2004			
Pennsylvania	2002-2003			x
	2003-2004			
Puerto Rico	2002-2003			
	2003-2004			
Rhode Island	2002-2003			x
	2003-2004			
South Carolina	2002-2003			x
	2003-2004	x	x	

State or Jurisdiction	School Year	Provided Data on Students Eligible for and Requesting NCLB Transfers	Provided Data on Students Eligible for, Requesting and Actually Using NCLB Transfers	Provided Parental Notification Letters
South Dakota	2002-2003			x
	2003-2004			
Tennessee	2002-2003			
	2003-2004			
Texas	2002-2003	x	x	
	2003-2004			
U.S. Virgin Islands	2002-2003			
	2003-2004			
Utah	2002-2003	x	x	x
	2003-2004	x	x	
Vermont	2002-2003			
	2003-2004			
Virginia	2002-2003	x	x	
	2003-2004	x	x	
Washington	2002-2003			x
	2003-2004			
West Virginia	2002-2003			x
	2003-2004			
Wisconsin	2002-2003			
	2003-2004			
Wyoming <sup>a</sup>	2002-2003			
	2003-2004			

<sup>a</sup>Wyoming had no schools in need of improvement.

## Appendix B

### Transfer Information Obtained About School Districts

District	School Year	Provided Data on Students Eligible for and Requesting NCLB Transfers	Provided Data on Students Eligible for, Requesting and Actually Using NCLB Transfers	Provided Parental Notification Letters	No Schools in Need of Improvement	News Articles Were CCCR's Only Sources of Information
Birmingham City, AL	2002-2003			x		
	2003-2004					
Huntsville City, AL	2002-2003			x		
	2003-2004	x	x			
Jefferson County, AL	2002-2003			x		
	2003-2004	x <sup>a</sup>	x <sup>a</sup>			
Mobile County, AL	2002-2003			x		
	2003-2004	x <sup>a</sup>	x <sup>a</sup>			
Montgomery County, AL	2002-2003			x		
	2003-2004	x <sup>a</sup>	x <sup>a</sup>			
Russell County, AL	2002-2003			x		
	2003-2004	x <sup>a</sup>	x <sup>a</sup>			
Talladega County, AL	2002-2003			x		
	2003-2004	x <sup>a</sup>	x <sup>a</sup>			
Washington County, AL	2002-2003			x		
	2003-2004	x <sup>a</sup>	x <sup>a</sup>			
Anchorage, AK	2002-2003	x	x	x		
	2003-2004					

District	School Year	Provided Data on Students Eligible for and Requesting NCLB Transfers	Provided Data on Students Eligible for, Requesting and Actually Using NCLB Transfers	Provided Parental Notification Letters	No Schools in Need of Improvement	News Articles Were CCCR's Only Sources of Information
Phoenix Elementary School District #1, AZ	2002-2003			x		
	2003-2004					
Phoenix Union High School, AZ	2002-2003					
	2003-2004					
Tucson Unified, AZ	2002-2003	x	x			
	2003-2004	x	x			
Little Rock, AR	2002-2003	x	x	x		
	2003-2004					
North Little Rock, AR	2002-2003	x	x	x		
	2003-2004	x	x			
Berkeley Unified, CA	2002-2003			x		
	2003-2004	x	x			
Elk Grove Unified, CA	2002-2003				x	
	2003-2004					
Escondido Union, CA	2002-2003					x
	2003-2004					
Fresno Unified, CA	2002-2003	x	x	x		
	2003-2004	x	x			
Grant Joint Union High School, CA	2002-2003					x
	2003-2004					
Hacienda La Puente Unified, CA	2002-2003					
	2003-2004					

District	School Year	Provided Data on Students Eligible for and Requesting NCLB Transfers	Provided Data on Students Eligible for, Requesting and Actually Using NCLB Transfers	Provided Parental Notification Letters	No Schools in Need of Improvement	News Articles Were CCCR's Only Sources of Information
Long Beach Unified, CA	2002-2003			x		
	2003-2004	x	x			
Los Angeles, CA	2002-2003					x
	2003-2004					
Oakland Unified, CA	2002-2003					
	2003-2004	x				
Pasadena Unified, CA	2002-2003			x		
	2003-2004					
Riverside Unified, CA	2002-2003	x	x	x		
	2003-2004					
Sacramento City Unified, CA	2002-2003			x		
	2003-2004	x				
San Bernardino City Unified, CA	2002-2003					
	2003-2004					
San Diego City, CA	2002-2003					x
	2003-2004					
San Francisco Unified, CA	2002-2003			x		
	2003-2004					
San José Unified, CA	2002-2003	x	x	x		
	2003-2004	x	x			
Colorado Springs, CO	2002-2003					x
	2003-2004					

District	School Year	Provided Data on Students Eligible for and Requesting NCLB Transfers	Provided Data on Students Eligible for, Requesting and Actually Using NCLB Transfers	Provided Parental Notification Letters	No Schools in Need of Improvement	News Articles Were CCCR's Only Sources of Information
Denver, CO	2002-2003			x		
	2003-2004	x	x			
Bridgeport, CT	2002-2003	x <sup>a</sup>	x <sup>a</sup>	x		
	2003-2004	x <sup>a</sup>	x <sup>a</sup>			
Hartford, CT	2002-2003	x <sup>a</sup>	x <sup>a</sup>	x		
	2003-2004	x <sup>a</sup>	x <sup>a</sup>			
New Haven, CT	2002-2003	x <sup>a</sup>	x <sup>a</sup>	x		
	2003-2004	x <sup>a</sup>	x <sup>a</sup>			
Christina, DE	2002-2003			x		
	2003-2004	x	x			
Colonial, DE	2002-2003			x		
	2003-2004					
Red Clay Consolidated, DE	2002-2003					
	2003-2004					
District of Columbia	2002-2003	x	x	x		
	2003-2004	x	x			
Broward County, FL	2002-2003				x	
	2003-2004					
Collier County, FL	2002-2003			x		x
	2003-2004					
Duval County, FL	2002-2003			x		
	2003-2004	x				

District	School Year	Provided Data on Students Eligible for and Requesting NCLB Transfers	Provided Data on Students Eligible for; Requesting and Actually Using NCLB Transfers	Provided Parental Notification Letters	No Schools in Need of Improvement	News Articles Were CCCR's Only Sources of Information
Hillsborough County, FL	2002-2003			x		
	2003-2004					
Miami-Dade County, FL	2002-2003			x		
	2003-2004	x	x			
Palm Beach County, FL	2002-2003			x		
	2003-2004	x	x			
Pinellas County, FL	2002-2003					x
	2003-2004					
Atlanta, GA	2002-2003					x
	2003-2004					
Clarke County, GA	2002-2003	x	x	x		
	2003-2004	x	x			
DeKalb County, GA	2002-2003	x	x	x		
	2003-2004	x	x			
Dougherty County, GA	2002-2003					
	2003-2004					
Fulton County, GA	2002-2003			x		
	2003-2004					
Lee County, GA	2002-2003			x		
	2003-2004					
Richmond County, GA	2002-2003					x
	2003-2004					

District	School Year	Provided Data on Students Eligible for and Requesting NCLB Transfers	Provided Data on Students Eligible for, Requesting and Actually Using NCLB Transfers	Provided Parental Notification Letters	No Schools in Need of Improvement	News Articles Were CCCR's Only Sources of Information
Sumter County, GA	2002-2003			x		
	2003-2004	x	x			
Chicago, IL	2002-2003			x		
	2003-2004	x <sup>b</sup>	x <sup>b</sup>			
Evanston Township High School District, IL	2002-2003				x	
	2003-2004					
Evanston/Skokie, IL	2002-2003				x	
	2003-2004					
Rockford, IL	2002-2003					x
	2003-2004					
Springfield, IL	2002-2003			x		
	2003-2004	x	x			
Fort Wayne, IN	2002-2003			x		
	2003-2004	x	x			
Indianapolis, IN	2002-2003	x	x	x		
	2003-2004	x	x			
South Bend, IN	2002-2003					x
	2003-2004					
Cedar Falls, IA	2002-2003	x				
	2003-2004					
Des Moines, IA	2002-2003	x	x	x		
	2003-2004	x	x			

District	School Year	Provided Data on Students Eligible for and Requesting NCLB Transfers	Provided Data on Students Eligible for, Requesting and Actually Using NCLB Transfers	Provided Parental Notification Letters	No Schools in Need of Improvement	News Articles Were CCCR's Only Sources of Information
Emporia, KS	2002-2003	x <sup>a</sup>	x <sup>a</sup>			
	2003-2004				x	
Kansas City, KS	2002-2003	x	x	x		
	2003-2004	x	x			
Topeka, KS	2002-2003			x		
	2003-2004	x	x			
Wichita, KS	2002-2003	x	x	x		
	2003-2004	x	x			
Jefferson County, KY	2002-2003	x	x	x		
	2003-2004	x	x			
Caddo Parish, LA	2002-2003			x		
	2003-2004	x	x			
East Baton Rouge Parish, LA	2002-2003			x		
	2003-2004	x	x			
Jefferson Parish, LA	2002-2003			x		
	2003-2004	x	x			
Orleans Parish, LA	2002-2003			x		
	2003-2004	x	x			
Pointe Coupee Parish, LA	2002-2003			x		
	2003-2004	x <sup>a</sup>				
Lewiston, ME	2002-2003				x	
	2003-2004					

District	School Year	Provided Data on Students Eligible for and Requesting NCLB Transfers	Provided Data on Students Eligible for, Requesting and Actually Using NCLB Transfers	Provided Parental Notification Letters	No Schools in Need of Improvement	News Articles Were CCCR's Only Sources of Information
Portland, ME	2002-2003				x	
	2003-2004					
Anne Arundel County, MD	2002-2003	x <sup>a</sup>	x <sup>a</sup>	x		
	2003-2004	x <sup>a</sup>	x <sup>a</sup>			
Baltimore City, MD	2002-2003	x	x	x		
	2003-2004	x	x			
Baltimore County, MD	2002-2003	x <sup>c</sup>	x <sup>c</sup>	x		
	2003-2004	x <sup>c</sup>	x <sup>c</sup>			
Frederick County, MD	2002-2003	x <sup>a</sup>	x <sup>a</sup>	x		
	2003-2004	x <sup>a</sup>	x <sup>a</sup>			
Howard County, MD	2002-2003	x <sup>a</sup>	x <sup>a</sup>	x		
	2003-2004	x <sup>a</sup>	x <sup>a</sup>			
Montgomery County, MD	2002-2003	x <sup>a</sup>	x <sup>a</sup>	x		
	2003-2004	x <sup>a</sup>	x <sup>a</sup>			
Prince George's County, MD	2002-2003	x <sup>a</sup>	x <sup>a</sup>	x		
	2003-2004	x <sup>a</sup>	x <sup>a</sup>			
St. Mary's County, MD	2002-2003	x <sup>a</sup>	x <sup>a</sup>	x		
	2003-2004	x <sup>a</sup>	x <sup>a</sup>			
Boston, MA	2002-2003	x		x <sup>d</sup>		
	2003-2004	x	x			
Lawrence, MA	2002-2003	x	x	x		
	2003-2004					

District	School Year	Provided Data on Students Eligible for and Requesting NCLB Transfers	Provided Data on Students Eligible for, Requesting and Actually Using NCLB Transfers	Provided Parental Notification Letters	No Schools in Need of Improvement	News Articles Were CCCR's Only Sources of Information
New Bedford, MA	2002-2003			x		
	2003-2004	x	x			
Springfield, MA	2002-2003	x		x		
	2003-2004	x	x			
Worcester, MA	2002-2003					
	2003-2004					
Ann Arbor, MI	2002-2003					
	2003-2004					
Detroit, MI	2002-2003					x
	2003-2004					
Flint, MI	2002-2003					x
	2003-2004					
Grand Rapids, MI	2002-2003			x		
	2003-2004					
Kalamazoo, MI	2002-2003			x		
	2003-2004					
Minneapolis, MN	2002-2003	x	x	x		
	2003-2004	x	x			
St. Paul, MN	2002-2003	x <sup>e</sup>	x <sup>e</sup>	x		
	2003-2004	x	x			
Ferguson-Florissant, MO	2002-2003				x	
	2003-2004					

District	School Year	Provided Data on Students Eligible for and Requesting NCLB Transfers	Provided Data on Students Eligible for, Requesting and Actually Using NCLB Transfers	Provided Parental Notification Letters	No Schools in Need of Improvement	News Articles Were CCCR's Only Sources of Information
Hazelwood, MO	2002-2003				x	
	2003-2004					
Kansas City, MO	2002-2003					x
	2003-2004					
Parkway, MO	2002-2003				x	
	2003-2004					
St. Louis, MO	2002-2003	x	x	x		
	2003-2004	x	x			
Lincoln, NE	2002-2003				x	
	2003-2004					
Omaha, NE	2002-2003				x	
	2003-2004					
Clark County, NV	2002-2003	x <sup>e</sup>		x		
	2003-2004	x	x			
Washoe County, NV	2002-2003	x	x	x		
	2003-2004	x	x			
Londonderry, NH	2002-2003				x	
	2003-2004					
Manchester, NH	2002-2003				x	
	2003-2004					
Merrimack, NH	2002-2003				x	
	2003-2004					

District	School Year	Provided Data on Students Eligible for and Requesting NCLB Transfers	Provided Data on Students Eligible for, Requesting and Actually Using NCLB Transfers	Provided Parental Notification Letters	No Schools in Need of Improvement	News Articles Were CCCR's Only Sources of Information
Asbury Park, NJ	2002-2003					
	2003-2004					
Atlantic City, NJ	2002-2003	x	x	x		
	2003-2004	x	x			
Bayonne City, NJ	2002-2003			x		
	2003-2004	x	x			
Bridgeton City, NJ	2002-2003					
	2003-2004					
Camden, NJ	2002-2003			x		
	2003-2004					
East Orange, NJ	2002-2003					
	2003-2004					
Elizabeth, NJ	2002-2003			x		
	2003-2004					
Irvington, NJ	2002-2003					
	2003-2004					
Jersey City, NJ	2002-2003			x		
	2003-2004					
Neptune Township, NJ	2002-2003					
	2003-2004					
New Brunswick, NJ	2002-2003			x		
	2003-2004	x	x			

District	School Year	Provided Data on Students Eligible for and Requesting NCLB Transfers	Provided Data on Students Eligible for, Requesting and Actually Using NCLB Transfers	Provided Parental Notification Letters	No Schools in Need of Improvement	News Articles Were CCCR's Only Sources of Information
Newark, NJ	2002-2003			x		
	2003-2004					
Orange Township, NJ	2002-2003	x	x	x		
	2003-2004	x	x			
Paterson, NJ	2002-2003	x	x	x		
	2003-2004	x	x			
Perth Amboy, NJ	2002-2003			x		
	2003-2004	x	x			
Plainfield, NJ	2002-2003			x <sup>d</sup>		
	2003-2004	x				
Pleasantville, NJ	2002-2003					
	2003-2004					
Trenton, NJ	2002-2003					
	2003-2004					
Vineland, NJ	2002-2003			x		
	2003-2004	x				
Albuquerque, NM	2002-2003			x		
	2003-2004	x				
Santa Fe, NM	2002-2003			x		
	2003-2004	x				
Albany, NY	2002-2003					x
	2003-2004					

District	School Year	Provided Data on Students Eligible for and Requesting NCLB Transfers	Provided Data on Students Eligible for, Requesting and Actually Using NCLB Transfers	Provided Parental Notification Letters	No Schools in Need of Improvement	News Articles Were CCCR's Only Sources of Information
Buffalo, NY	2002-2003			x		
	2003-2004					
New York City, NY	2002-2003			x		
	2003-2004	x	x			
Rochester, NY	2002-2003					
	2003-2004					
Roosevelt Union, NY	2002-2003					
	2003-2004					
Syracuse, NY	2002-2003	x	x	x		
	2003-2004	x	x			
Chapel Hill-Carrboro, NC	2002-2003				x	
	2003-2004					
Charlotte-Mecklenburg, NC	2002-2003					
	2003-2004					
Durham, NC	2002-2003					
	2003-2004					
New Hanover County, NC	2002-2003				x	
	2003-2004					
Wake County, NC	2002-2003				x	
	2003-2004					
Akron, OH	2002-2003	x	x	x		
	2003-2004	x	x			

District	School Year	Provided Data on Students Eligible for and Requesting NCLB Transfers	Provided Data on Students Eligible for, Requesting and Actually Using NCLB Transfers	Provided Parental Notification Letters	No Schools in Need of Improvement	News Articles Were CCCR's Only Sources of Information
Cincinnati, OH	2002-2003			x		
	2003-2004					
Cleveland Municipal, OH	2002-2003	x	x	x		
	2003-2004	x	x			
Columbus, OH	2002-2003			x		
	2003-2004					
Dayton, OH	2002-2003	x	x	x		
	2003-2004	x	x			
Toledo, OH	2002-2003	x	x	x		
	2003-2004	x	x			
Youngstown, OH	2002-2003	x	x	x		
	2003-2004	x	x			
Oklahoma City, OK	2002-2003			x		
	2003-2004	x	x			
Portland, OR	2002-2003			x		
	2003-2004	x	x			
Allentown, PA	2002-2003			x		
	2003-2004					
Chester-Upland, PA	2002-2003			x		
	2003-2004	x	x			
Harrisburg, PA	2002-2003					
	2003-2004					

District	School Year	Provided Data on Students Eligible for and Requesting NCLB Transfers	Provided Data on Students Eligible for, Requesting and Actually Using NCLB Transfers	Provided Parental Notification Letters	No Schools in Need of Improvement	News Articles Were CCCR's Only Sources of Information
Lancaster, PA	2002-2003					
	2003-2004					
Philadelphia, PA	2002-2003			x		
	2003-2004					
Pittsburgh, PA	2002-2003			x <sup>f</sup>		
	2003-2004	x	x			
Providence, RI	2002-2003			x		
	2003-2004	x	x			
Aiken, SC	2002-2003			x		
	2003-2004	x <sup>a</sup>	x <sup>a</sup>			
Berkeley County, SC	2002-2003			x		
	2003-2004	x <sup>a</sup>	x <sup>a</sup>			
Charleston County, SC	2002-2003	x	x	x		
	2003-2004	x <sup>a</sup>	x <sup>a</sup>			
Colleton, SC	2002-2003			x		
	2003-2004	x <sup>a</sup>	x <sup>a</sup>			
Greenville County, SC	2002-2003			x		
	2003-2004	x <sup>a</sup>	x <sup>a</sup>			
Richland County #1, SC	2002-2003			x		
	2003-2004	x	x			
Spartanburg County #7, SC	2002-2003			x		
	2003-2004	x <sup>a</sup>	x <sup>a</sup>			

District	School Year	Provided Data on Students Eligible for and Requesting NCLB Transfers	Provided Data on Students Eligible for, Requesting and Actually Using NCLB Transfers	Provided Parental Notification Letters	No Schools in Need of Improvement	News Articles Were CCCR's Only Sources of Information
Hamilton County, TN	2002-2003			x		
	2003-2004	x	x			
Memphis, TN	2002-2003					
	2003-2004					
Metropolitan Nashville, TN	2002-2003	x	x			
	2003-2004	x				
Arlington Independent, TX	2002-2003				x	
	2003-2004					
Austin Independent, TX	2002-2003			x		
	2003-2004					
Dallas Independent, TX	2002-2003			x		
	2003-2004					
El Paso Independent, TX	2002-2003			x		
	2003-2004					
Fort Worth Independent, TX	2002-2003					
	2003-2004					
Houston Independent, TX	2002-2003					
	2003-2004					
Northside Independent, TX	2002-2003					
	2003-2004					
San Antonio Independent, TX	2002-2003				x	
	2003-2004					

District	School Year	Provided Data on Students Eligible for and Requesting NCLB Transfers	Provided Data on Students Eligible for, Requesting and Actually Using NCLB Transfers	Provided Parental Notification Letters	No Schools in Need of Improvement	News Articles Were CCCR's Only Sources of Information
Salt Lake City, UT	2002-2003				x	
	2003-2004					
City of Burlington, VT	2002-2003				x	
	2003-2004					
South Burlington, VT	2002-2003				x	
	2003-2004					
Alexandria City, VA	2002-2003			x		
	2003-2004	x	x			
Arlington, VA	2002-2003				x	
	2003-2004					
Chesterfield County, VA	2002-2003				x	
	2003-2004					
Fairfax County, VA	2002-2003				x	
	2003-2004					
Henrico County, VA	2002-2003				x	
	2003-2004					
Norfolk, VA	2002-2003				x	
	2003-2004					
Richmond, VA	2002-2003			x		
	2003-2004	x	x			
Seattle, WA	2002-2003			x		
	2003-2004	x	x			

District	School Year	Provided Data on Students Eligible for and Requesting NCLB Transfers	Provided Data on Students Eligible for, Requesting and Actually Using NCLB Transfers	Provided Parental Notification Letters	No Schools in Need of Improvement	News Articles Were CCCR's Only Sources of Information
Tacoma, WA	2002-2003	x	x	x		
	2003-2004	x	x			
Cabell County, WV	2002-2003			x		
	2003-2004					
Clay County, WV	2002-2003			x		
	2003-2004					
Hampshire County, WV	2002-2003			x		
	2003-2004					
Kanawha County, WV	2002-2003	x	x	x		
	2003-2004	x	x			
Marion County, WV	2002-2003	x <sup>a</sup>		x		
	2003-2004					
Nicholas County, WV	2002-2003			x		
	2003-2004					
Raleigh County, WV	2002-2003			x		
	2003-2004					
Wood County, WV	2002-2003	x <sup>a</sup>	x <sup>a</sup>	x		
	2003-2004	x <sup>a</sup>	x <sup>a</sup>			

District	School Year	Provided Data on Students Eligible for and Requesting NCLB Transfers	Provided Data on Students Eligible for, Requesting and Actually Using NCLB Transfers	Provided Parental Notification Letters	No Schools in Need of Improvement	News Articles Were CCCR's Only Sources of Information
Milwaukee, WI	2002-2003	x	x	x		
	2003-2004	x	x			
Laramie County #1, WY	2002-2003				x	
	2003-2004					

<sup>a</sup> Information obtained from state department of education.

<sup>b</sup> Transfer eligibility information came from a news article, remaining information came from district.

<sup>c</sup> Data on transfers granted came from district; other data came from state department of education.

<sup>d</sup> Letter discussed supplemental services only and did not mention transfer options.

<sup>e</sup> Information came from a news article.

<sup>f</sup> Only sent letter stating that transfer had been approved.

## Appendix C

# States, Jurisdictions and Districts that Did Not Respond to CCCR's Request for Information by April 1, 2004

### States and Jurisdictions

Arkansas  
Massachusetts  
Puerto Rico<sup>a</sup>

### School Districts

Phoenix Union High School, AZ	Asbury Park, NJ
Escondido Union, CA	Bridgeton City, NJ
Hacienda La Puente Unified, CA	East Orange, NJ
San Bernardino City Unified, CA	Irvington, NJ
San Diego City, CA	Neptune Township, NJ
New Haven, CT	Newark, NJ
Colonial, DE	Albany, NY
Red Clay Consolidated, DE	Rochester, NY
Atlanta, GA	Roosevelt Union Free, NY
Richmond County, GA	Durham, NC
Rockford, IL <sup>a</sup>	Lancaster, PA
Worcester, MA	Memphis, TN
Ann Arbor, MI	Northside Independent, TX
Kansas City, MO	Salt Lake City, UT

<sup>a</sup> The Citizens' Commission received responses from Puerto Rico; Richmond County (Augusta), Georgia; and Rockford, Illinois, but they arrived after the deadline for submission and are not included in the data analysis.

## Appendix D

# States and Districts with Number of Eligible Students and Number of Transfer Requests Known for 2002-2003 and/or 2003-2004 School Years\*

State or Jurisdiction	2002-2003		2003-2004	
	Number of Students Eligible for NCLB Transfers	Number of Requests for Transfers	Number of Students Eligible for NCLB Transfers	Number of Requests for Transfers
Alabama			21,632	794
Connecticut	4,374	9	4,374	288
Delaware			6,387	195
Indiana			80,932	2,102
Louisiana			40,371	1,891
Maryland	63,981	1,491	48,918	1,410
Mississippi	3,450	4	3,262	7
South Carolina			41,639	1,826
Texas	8,086	89 <sup>a</sup>		
Utah	6,829	204	1,665	88
Virginia	14,953	381	19,030	558

District	2002-2003		2003-2004	
	Number of Students Eligible for NCLB Transfers	Number of Requests for Transfers	Number of Students Eligible for NCLB Transfers	Number of Requests for Transfers
Anchorage, AK	398	26		
Tucson, AZ	8,087	33	7,530	7
Little Rock, AR	3,323	202		
North Little Rock, AR	567	27	3,036	49
Berkeley, CA			1,136	20
Escondido, CA	1,500	180		
Fresno, CA	30,225	190	40,235	465
Long Beach, CA			4,910	90
Oakland, CA			17,609	39
Riverside, CA	2,696	98		
Sacramento, CA			13,870	3
San Diego, CA			30,000	484
San José, CA	513	29	3,479	9
Colorado Springs, CO	3,144	72	1,640	75
Denver, CO			16,000	416
District of Columbia	10,000	212	10,000	357
Duval County, FL			3,534	436
Miami-Dade County, FL			7,303	321
Palm Beach County, FL			3,920	401
Clarke County, GA	1,552	38	1,070	77
DeKalb County, GA	15,525	39	15,556	179
Fulton County, GA	11,000			
Sumter County, GA			2,090	169

District	2002-2003		2003-2004	
	Number of Students Eligible for NCLB Transfers	Number of Requests for Transfers	Number of Students Eligible for NCLB Transfers	Number of Requests for Transfers
Chicago, IL	145,000	2,425 <sup>b</sup>	270,757	19,246 <sup>b</sup>
Rockford, IL <sup>b</sup>	1,600	117	6,500	250
Springfield, IL			172	2
Indianapolis, IN	6,466	914		
Cedar Falls, IA	260	9		
Des Moines, IA	269	1	472	0
Emporia, KS	263	49		
Kansas City, KS	3,723	132	2,503	59
Topeka, KS			305	12
Wichita, KS	1,870	46	1,980	100
Jefferson County, KY	2,883	190	3,100	189
Boston, MA	18,768	45	18,768	272
Lawrence, MA	4,210	6		
New Bedford, MA			5,742	194
Springfield, MA	12,198	177	6,276	93
Detroit, MI			11,000	900
Minneapolis, MN <sup>c</sup>	7,929	6	9,343	10
St. Paul, MN	8,200	523	4,267	113
St. Louis, MO	3,968	278	3,482	131
Clark County, NV	4,500	109 <sup>b,d</sup>	12,408	301
Washoe County, NV	1,037	7	882	8
Atlantic City, NJ	2,534	3	1,530	31
Bayonne, NJ			2,395	53

District	2002-2003		2003-2004	
	Number of Students Eligible for NCLB Transfers	Number of Requests for Transfers	Number of Students Eligible for NCLB Transfers	Number of Requests for Transfers
New Brunswick, NJ			2,864	0
Orange, NJ	2,761	63	2,839	1
Paterson, NJ	11,373	50	11,000	360
Perth Amboy, NJ			756	4
Plainfield, NJ			589	25
Vineland, NJ			2,590	39
Albuquerque, NM			11,700	1,100
Santa Fe, NM			1,375	197
New York, NY	220,000	6,400 <sup>b</sup>	267,714	26,395
Syracuse, NY	5,928	918	4,645	995
Akron, OH	3,000	41	4,088	114
Cleveland, OH	13,020	34	16,830	43
Dayton, OH	6,505	0	5,241	0
Toledo, OH	5,367	352	6,555	217
Youngstown, OH	2,125	38	3,231	44
Oklahoma City, OK			5,295	80
Portland, OR			3,358	862
Chester-Upland, PA			4,975	10
Pittsburgh, PA			6,424	161
Providence, RI			3,346	74
Charleston County, SC	2071	281		
Hamilton County, TN			3,366	484

District	2002-2003		2003-2004	
	Number of Students Eligible for NCLB Transfers	Number of Requests for Transfers	Number of Students Eligible for NCLB Transfers	Number of Requests for Transfers
Metropolitan Nashville, TN	1,001 <sup>e</sup>	52	620 <sup>e</sup>	28
Seattle, WA			806	17
Tacoma, WA	3,101	565	2,350	253
Kanawha County, WV	218	4	195	5
Wood County, WV	452	48	450	43
Milwaukee, WI	43,000	685	36,000	734
<b>Total</b>	735,803	17,892	1,222,212	67,005
Percentage		2.4%		5.5%

\* Where state data is complete, districts in the state are not listed.

<sup>a</sup> Three districts responding to CCCR reported 112 requests.

<sup>b</sup> Information obtained from a news article.

<sup>c</sup> This data for Minneapolis is virtually meaningless regarding NCLB transfers.

<sup>d</sup> Expected transfers.

<sup>e</sup> Estimate.

## Appendix E

## States and Districts with Number of Eligible Students and Number of Transfer Requests Known for Both 2002-2003 and 2003-2004 School Years

State or Jurisdiction	2002-2003		2003-2004	
	Number of Students Eligible for NCLB Transfers	Number of Requests for Transfers	Number of Students Eligible for NCLB Transfers	Number of Requests for Transfers
Connecticut	4,374	9	4,374	288
Maryland	63,981	1,491	48,918	1,410
Mississippi	3,450	4	3,262	7
Utah	6,829	204	1,665	88
Virginia	14,953	381	19,030	558

District	2002-2003		2003-2004	
	Number of Students Eligible for NCLB Transfers	Number of Requests for Transfers	Number of Students Eligible for NCLB Transfers	Number of Requests for Transfers
Tucson, AZ	8,087	33	7,530	7
North Little Rock, AR	567	27	3,036	49
Fresno, CA	30,225	190	40,235	465
San José, CA	513	29	3,479	9
Colorado Springs, CO	3,144	72	1,640	75
District of Columbia	10,000	212	10,000	357
Clarke County, GA	1,552	38	1,070	77

District	2002-2003		2003-2004	
	Number of Students Eligible for NCLB Transfers	Number of Requests for Transfers	Number of Students Eligible for NCLB Transfers	Number of Requests for Transfers
DeKalb County, GA	15,525	39	15,556	179
Chicago, IL	145,000	2,425 <sup>a</sup>	270,757	19,246 <sup>a</sup>
Rockford, IL	1,600	117	6,500	250
Des Moines, IA	269	1	472	0
Kansas City, KS	3,723	132	2,503	59
Wichita, KS	1,870	46	1,980	100
Jefferson County, KY	2,883	190	3,100	189
Boston, MA	18,768	45	18,768	272
Springfield, MA	12,198	177	6,276	93
Minneapolis, MN <sup>b</sup>	7,929	6	9,343	10
St. Paul, MN	8,200	523	4,267	113
St. Louis, MO	3,968	278	3,482	131
Clark County, NV	4,500	109 <sup>a,c</sup>	12,408	301
Washoe County, NV	1,037	7	882	8
Atlantic City, NJ	2,534	3	1,530	31
Orange, NJ	2,761	63	2,839	1
Paterson, NJ	11,373	50	11,000	360
New York, NY	220,000	6,400 <sup>a</sup>	267,714	26,395
Syracuse, NY	5,928	918	4,645	995
Akron, OH	3,000	41	4,088	114
Cleveland, OH	13,020	34	16,830	43
Dayton, OH	6,505	0	5,241	0

District	2002-2003		2003-2004	
	Number of Students Eligible for NCLB Transfers	Number of Requests for Transfers	Number of Students Eligible for NCLB Transfers	Number of Requests for Transfers
Toledo, OH	5,367	352	6,555	217
Youngstown, OH	2,125	38	3,231	44
Metropolitan Nashville, TN	1,001 <sup>d</sup>	52	620 <sup>d</sup>	28
Tacoma, WA	3,101	565	2,350	253
Kanawha County, WV	218	4	195	5
Wood County, WV	452	48	450	43
Milwaukee, WI	43,000	685	36,000	734
<b>Total</b>	695,530	16,038	863,821	53,604
Percentage		2.3%		6.2%

<sup>a</sup> Information obtained from a news article.

<sup>b</sup> This data for Minneapolis is virtually meaningless regarding NCLB transfers.

<sup>c</sup> Expected transfers.

## Appendix F

# States and Districts with Number of Eligible Students, Number of Transfer Requests, and Number of Actual Transfers Known for 2002-2003 and/or 2003-2004 School Years

State or Jurisdiction	2002-2003			2003-2004		
	Number of Students Eligible for NCLB Transfers	Number of Requests for Transfers	Number of Students Actually Transferring	Number of Students Eligible for NCLB Transfers	Number of Requests for Transfers	Number of Students Actually Transferring
Alabama				21,632	794	750
Connecticut	4,374	9	7	4,374	288	262
Delaware				6,387	195	195
Indiana				80,932	2,102	1,301
Louisiana				40,371	1,891	670
Maryland	63,981	1,491	707	48,918	1,410	914
Mississippi	3,450	4	4	3,262	7	7
South Carolina				41,639	1,826	1,708
Texas	8,086	89 <sup>a</sup>	59			
Utah	6,829	204	204	1,665	88	88
Virginia	14,953	381	277	19,030	558	432

District	2002-2003			2003-2004		
	Number of Students Eligible for NCLB Transfers	Number of Requests for Transfers	Number of Students Actually Transferring	Number of Students Eligible for NCLB Transfers	Number of Requests for Transfers	Number of Students Actually Transferring
Anchorage, AK	398	26	26			
Tucson, AZ	8,087	33	31	7,530	7	5
Little Rock, AR	3,323	202	106			
North Little Rock, AR	567	27	27	3,036	49	49
Berkeley, CA				1,136	20	7
Fresno, CA	30,225	190	62	40,235	465	102
Long Beach, CA				4,910	90	30
Riverside, CA	2,696	98	92			
San Diego, CA				30,000	484	293
San José, CA	513	29	29	3,479	9	6
Denver, CO				16,000	416	299
District of Columbia	10,000	212	148	10,000	357	197
Miami-Dade County, FL				7,303	321	321
Palm Beach County, FL				3,920	401	387
Clarke County, GA	1,552	38	36	1,070	77	67
DeKalb County, GA	15,525	39	32	15,556	179	179
Chicago, IL				270,757	19,246 <sup>b</sup>	528
Springfield, IL				172	2	2
Des Moines, IA	269	1	1	472	0	0
Emporia, KS	263	49	49			
Kansas City, KS	3,723	132	132	2,503	59	53
Topeka, KS				305	12	12

District	2002-2003			2003-2004		
	Number of Students Eligible for NCLB Transfers	Number of Requests for Transfers	Number of Students Actually Transferring	Number of Students Eligible for NCLB Transfers	Number of Requests for Transfers	Number of Students Actually Transferring
Wichita, KS	1,870	46	5	1,980	100	85
Jefferson County, KY	2,883	190	155	3,100	189	158
Boston, MA				18,768	272	117
Lawrence, MA	4,210	6	6			
New Bedford, MA				5,742	194	166
Springfield, MA				6,276	93	21
Detroit, MI				11,000	900	0
Minneapolis, MN <sup>c</sup>	7,929	6	6	9,343	10	8
St. Paul, MN				4,267	113	92
St. Louis, MO	3,968	278	38	3,482	131	18
Clark County, NV				12,408	301	296
Washoe County, NV	1,037	7	7	882	8	8
Atlantic City, NJ	2,534	3	2	1,530	31	31
Bayonne, NJ				2,395	53	53
New Brunswick, NJ				2,864	0	0
Orange, NJ	2,761	63	7	2,839	1	1
Paterson, NJ	11,373	50	5	11,000	360	0
Perth Amboy, NJ				756	4	4
New York, NY				267,714	26,395	6,979
Syracuse, NY	5,928	918	472	4,645	995	616
Akron, OH	3,000	41	35	4,088	114	76
Cleveland, OH	13,020	34	19	16,830	43	35

District	2002-2003			2003-2004		
	Number of Students Eligible for NCLB Transfers	Number of Requests for Transfers	Number of Students Actually Transferring	Number of Students Eligible for NCLB Transfers	Number of Requests for Transfers	Number of Students Actually Transferring
Dayton, OH	6,505	0	0	5,241	0	0
Toledo, OH	5,367	352	154 <sup>d</sup>	6,555	217	62
Youngstown, OH	2,125	38	38	3,231	44	22
Oklahoma City, OK				5,295	80	38
Portland, OR				3,358	862	862
Chester-Upland, PA				4,975	10	0
Pittsburgh, PA				6,424	161	151
Providence, RI				3,346	74	27
Charleston County, SC	2071	281	145 <sup>d</sup>			
Hamilton County, TN				3,366	484	484
Metropolitan Nashville, TN	1,001 <sup>e</sup>	52	46			
Seattle, WA				806	17	17
Tacoma, WA	3,101	565	565	2,350	253	253
Kanawha County, WV	218	4	4	195	5	4
Wood County, WV	452	48	48	450	43	43
Milwaukee, WI	43,000	685	57	36,000	734	642
<b>Total</b>	303,167	6,921	3,843	1,160,095	64,644	20,233
Percentage		2.3%	1.3%		5.6%	1.7%

<sup>a</sup> Information obtained from a news article.

<sup>b</sup> Information obtained from a news article and the school district.

<sup>c</sup> This data for Minneapolis is virtually meaningless regarding NCLB transfers.

<sup>d</sup> Enrolled.

<sup>e</sup> Estimate.

## Appendix G

## States and Districts with Number of Eligible Students, Number of Transfer Requests, and Number of Actual Transfers Known for Both 2002-2003 and 2003-2004 School Years

State	2002-2003			2003-2004		
	Number of Students Eligible for NCLB Transfers	Number of Requests for Transfers	Number of Students Actually Transferring	Number of Students Eligible for NCLB Transfers	Number of Requests for Transfers	Number of Students Actually Transferring
Connecticut	4,374	9	7	4,374	288	262
Maryland	63,981	1,491	707	48,918	1,410	914
Mississippi	3,450	4	4	3,262	7	7
Utah	6,829	204	204	1,665	88	88
Virginia	14,953	381	277	19,030	558	432

District	2002-2003			2003-2004		
	Number of Students Eligible for NCLB Transfers	Number of Requests for Transfers	Number of Students Actually Transferring	Number of Students Eligible for NCLB Transfers	Number of Requests for Transfers	Number of Students Actually Transferring
Tucson, AZ	8,087	33	31	7,530	7	5
North Little Rock, AR	567	27	27	3,036	49	49
Fresno, CA	30,225	190	62	40,235	465	102
District of Columbia	10,000	212	148	10,000	357	197
Clarke County, GA	1,552	38	36	1,070	77	67
DeKalb County, GA	15,525	39	32	15,556	179	179

District	2002-2003			2003-2004		
	Number of Students Eligible for NCLB Transfers	Number of Requests for Transfers	Number of Students Actually Transferring	Number of Students Eligible for NCLB Transfers	Number of Requests for Transfers	Number of Students Actually Transferring
Des Moines, IA	269	1	1	472	0	0
Kansas City, KS	3,723	132	132	2,503	59	53
Wichita, KS	1,870	46	5	1,980	100	85
Jefferson County, KY	2,883	190	155	3,100	189	158
Minneapolis, MN <sup>a</sup>	7,929	6	6	9,343	10	8
St. Louis, MO	3,968	278	38	3,482	131	18
Washoe County, NV	1,037	7	7	882	8	8
Atlantic City, NJ	2,534	3	2	1,530	31	31
Orange, NJ	2,761	63	7	2,839	1	1
Paterson, NJ	11,373	50	5	11,000	360	0
Syracuse, NY	5,928	918	472	4,645	995	616
Akron, OH	3,000	41	35	4,088	114	76
Cleveland, OH	13,020	34	19	16,830	43	35
Dayton, OH	6,505	0	0	5,241	0	0
Toledo, OH	5,367	352	154 <sup>b</sup>	6,555	217	62
Youngstown, OH	2,125	38	38	3,231	44	22
Tacoma, WA	3,101	565	565	2,350	253	253
Kanawha County, WV	218	4	4	195	5	4
Wood County, WV	452	48	48	450	43	43
Milwaukee, WI	43,000	685	57	36,000	734	642
<b>Total</b>	280,606	6,089	3,285	271,392	6,822	4,417
Percentage		2.2%	1.2%		2.5%	1.6%

<sup>a</sup> This data for Minneapolis is virtually meaningless regarding NCLB transfers.

<sup>b</sup> Enrolled.

## Appendix H

## States and Districts with Number of Transfer Requests Only in 2003-2004 School Year\*

State or District	Number of Requests for Transfers
Hawaii	147
Idaho	0
Oregon	873
West Virginia	90
Phoenix Elementary, AZ	0
Richmond County, GA	500
Jersey City, NJ	0
Camden, NJ	9
Buffalo, NJ	334
Philadelphia, PA	2,012
<b>Total</b>	<b>3,965</b>

\* May sometimes only be number of students who actually transferred.

## Appendix I

### **States that Only Sent Data on Consolidated Report Regarding the Number of Students Who Actually Transferred in 2002-2003 School Year**

Alaska  
Arizona  
Colorado  
Hawaii  
Idaho  
Illinois<sup>a</sup>  
Iowa  
Kansas  
Kentucky  
Michigan  
Minnesota  
Missouri  
Montana  
Nevada  
New Mexico  
New York  
Ohio  
Oklahoma  
Washington

<sup>a</sup> No data included.

## Appendix J

# The No Child Left Behind Act of 2001: Major Titles and Programs

### **Title I—Improving the Academic Achievement of the Disadvantaged**

- A. Basic Programs Operated by Local Educational Agencies
- B. Reading First, Early Reading First and Even Start Family Literacy Programs
- C. Migrant Education
- D. Programs for Neglected and Delinquent Children
- E. National Assessment of Title I
- F. Comprehensive School Reform
- G. Advanced Placement
- H. Dropout Prevention

### **Title II—Preparing, Training, And Recruiting High Quality Teachers And Principals**

- A. Teacher and Principal Training and Recruiting Fund
- C. Innovation for Teacher Quality

### **Title III—Language Instruction For Limited English Proficient And Immigrant Students**

### **Title IV—21st Century Schools**

- A. Safe and Drug-Free Schools and Communities
- B. 21st Century Centers (After-School Programs)

### **Title V—Promoting Informed Parental Choice And Innovative Programs**

- A. Innovative Parental Choice Programs
- B. Public Charter Schools
- C. Magnet School Assistance
- D. Fund for the Improvement of Education (includes programs for gifted and talented students, women's educational equity, community technology centers, and others)

### **Title VI—Flexibility And Accountability**

- A. Grants for State Assessments; Local and State Flexibility Programs; Transferability of Funds
- B. Rural Education

### **Title VII—Indian, Native Hawaiian, And Alaska Native Education**

- A. Indian Education
- B. Native Hawaiian Education
- C. Alaska Native Education

### **Title VIII—Impact Aid Program**

### **Title IX—General Provisions**

- B. Flexibility in Use of Funds
- C. Program Coordination and Consolidated State and Local Plans and Applications
- D. Waivers
- E. Uniform Provisions (includes prohibition against discrimination, civil rights provisions, and other provisions on home schooling, school prayer, equal access to school facilities, military recruiters' access to student records, and unsafe school choice option)

### **Title X—Repeals, Redesignations, And Amendments To Other Statutes** (includes amendments to other federal statutes, including the McKinney Act for educating homeless children and youth)

## Appendix K

# Title I Local Education Agency Allocations, United States

School Year	Basic Allocation	Concentrated Allocation	Targeted and EFIG Allocation	Total Allocation	Percent Increase
2001-2002	\$7.1 billion	\$1.35 billion	\$0	\$8.54 billion	7.3%
2002-2003	\$7.1 billion	\$1.35 billion	\$1.79 billion	\$10.35 billion	21.2%
2003-2004	\$7.03 billion	\$1.35 billion	\$3.18 billion	\$11.56 billion	11.7%

*Sources: Title I Report ([www.titlei.com](http://www.titlei.com)), U.S. Department of Education*

## Appendix L

### Title I Allocations to Selected Urban School Districts, 2003-2004

District	Basic Allocation (in millions)	Concentrated Allocation (in millions)	Targeted and EFIG Allocation (in millions)	Total Allocation (in millions)	Percent Increase from 2002-2003
Fresno, CA	\$23.29	\$5.39	\$14.03	\$42.71	14.3%
Los Angeles, CA	\$176.59	\$40.89	\$132.32	\$349.8	15.4%
Oakland, CA	\$16.59	\$3.66	\$9.2	\$29.46	10.5%
San Diego, CA	\$27.05	\$6.17	\$16.41	\$49.64	6.2%
Denver, CO	\$12.18	\$2.76	\$8.18	\$23.11	8.4%
DeKalb County, GA	\$11.3	\$2.62	\$7.29	\$21.2	40.8%
Chicago, IL	\$121.13	\$27.85	\$91.84	\$240.83	11.2%
Boston, MA	\$25.52	\$5.58	\$16.37	\$47.47	12.3%
Detroit, MI	\$69.53	\$16.48	\$48.72	\$134.74	5.2%
Albuquerque, NM	\$11.81	\$2.73	\$7.85	\$22.39	28.7%
Bronx County, NY	\$99.18	\$22.96	\$69.36	\$191.5	26.7%
Kings County, NY	\$143.72	\$32.48	\$100.84	\$277.04	14.7%
New York County, NY	\$66	\$14.44	\$38.7	\$119.12	9.1%
Queens County, NY	\$74.71	\$17.3	\$50.62	\$142.63	22.4%
Richmond County, NY	\$11.5	\$2.66	\$5.54	\$19.7	27.2%
Syracuse, NY	\$9.59	\$2.16	\$4.2	\$15.95	5.2%
Cleveland, OH	\$27.16	\$6.3	\$20.47	\$59.93	22%
Portland, OR	\$8.1	\$1.77	\$4.58	\$14.45	-4.9%
Milwaukee, WI	\$34.2	\$6.55	\$20.72	\$61.47	4.4%

*Sources: Title I Report ([www.titlei.com](http://www.titlei.com)), U.S. Department of Education*

## Appendix M

# Virginia's School Choice Survey for Districts

Virginia Department of Education Public School Choice Survey Due: September 13, 2002	
1. Has the division's public school choice plan been adopted/approved by the local school board?	<input type="checkbox"/> Yes <input type="checkbox"/> No
2. Has the school division notified appropriate parents of the options available to them as outlined in the division's public school choice plan?	<input type="checkbox"/> Yes <input type="checkbox"/> No
3. What strategies were used to notify and inform parents of the public school choice requirement?	<hr/> <hr/> <hr/> <hr/>
4. Did the school division have the capacity to grant all parent requests for transfers?	<input type="checkbox"/> Yes <input type="checkbox"/> No
5. How many parents requested transfers?	<hr/>
6. How many parent requests were satisfied?	<hr/>
7. What was the total number of students transferred?	<hr/>
8. How many schools were available to receive students?	<hr/>
9. How many schools received the transferred students?	<hr/>
10. If the school had limited capacity to grant all requests, did the school serve the lowest performing students from low-income families first?	<input type="checkbox"/> Yes <input type="checkbox"/> No
11. Is there a prioritized waiting list for future placements <i>this school year</i> should slots become available?	<input type="checkbox"/> Yes <input type="checkbox"/> No
12. Did the school division lack the capacity to offer public school choice?	<input type="checkbox"/> Yes <input type="checkbox"/> No
13. If the school division had limited capacity or lacked capacity, did the school division seek agreements with surrounding localities? Briefly discuss the response.	<input type="checkbox"/> Yes <input type="checkbox"/> No
<hr/> <hr/> <hr/> <hr/>	

14. If a division lacked capacity, what additional services (other choices in curriculum or instruction such as distance learning) were offered as an alternative? These services would most likely fall in the category of before- or after-school services.

---

---

---

---

15. Briefly describe other "Best Effort" procedures that were substituted for the inability to provide the public school choice option to parents? Examples: scheduling and/or staffing alternatives, exploring developing a charter school, etc.

---

---

---

---

16. Briefly describe school improvement initiatives (section 1116 of Title I) the school division and school(s) are implementing with Title I Accountability funds, if all funds were not needed for transportation?

---

---

---

---

17. What difficulties, other than those referenced above, did the school division face as it attempted to implement the public school choice option for schools in Title I School Improvement?

---

---

---

---

Please return this survey no later than Friday, September 13, 2002, to [REDACTED].

Virginia Department of Education, P.O. Box [REDACTED] Richmond, VA 23218-2120

Fax: [REDACTED]

E-mail: [REDACTED]

## Endnotes

<sup>1</sup> For further discussion of the interface between NCLB and state policies see CENTER FOR THE STUDY OF SOCIAL POLICY, *POLICY MATTERS: SETTING AND MEASURING BENCHMARKS FOR STATE POLICIES: RAISING EDUCATIONAL ACHIEVEMENT* (2003).

<sup>2</sup> No Child Left Behind Act of 2001, Pub. L. 107-110, 115 Stat. 1425, codified at 20 U.S.C.A. § 6301 *et seq.* (West 2003).

<sup>3</sup> The NCLB Act also provides a choice for parents when their children attend schools that have been identified as persistently dangerous or when their child has been the victim of a violent crime on school property. Parents may opt for such students to transfer to a different, safer public school. 20 U.S.C.A. § 7912(a) (2003). This report does not address implementation of this provision.

<sup>4</sup> 20 U.S.C.A. § 6316(b)(11) (2003).

<sup>5</sup> *Id.* at § 6316(c)(10)(C)(vii) (2003).

<sup>6</sup> 105 Ill. Comp. Stat. 5/34-18.24(a)(2) (2004) (this restriction applies to cities with over 500,000 students); *See also*, DEPARTMENT OF EDUCATION, *PUBLIC SCHOOL CHOICE: DRAFT NON-REGULATORY GUIDANCE 16* (Dec. 4, 2002) (Department of Education Guidance states, “Other laws, such as those that mandate specific student-teacher ratios, may make providing choice more difficult, but may not be used to prohibit parental choices.”)

<sup>7</sup> 20 U.S.C.A. § 6316(b)(6) (2003).

<sup>8</sup> *Id.* at § 6316(b)(10) (2003).

<sup>9</sup> DEPARTMENT OF EDUCATION, *PUBLIC SCHOOL CHOICE: DRAFT NON-REGULATORY GUIDANCE* (Feb. 6, 2004), available at <http://www.ed.gov/policy/elsec/guid/schoolchoiceguid.pdf>.

<sup>10</sup> *Id.* Districts may use Title V, Part A Local Innovative Education Program funds or funds transferred into Title I or Title V from other federal education programs under the ESEA Section 7305b “transferability” authority.

<sup>11</sup> 20 U.S.C.A. §§ 6316(b)(12), 6316(b)(13) (2003).

<sup>12</sup> *Id.* at § 6316(b)(5) (2003).

<sup>13</sup> 20 U.S.C.A. § 6311(h)(4)(F) (2003).

<sup>14</sup> *Id.* at § 6311(h)(4) (2003).

<sup>15</sup> Improving America’s Schools Act, Pub. L. 103-382, 108 Stat. 3519, codified at 20 U.S.C. § 6301 *et seq.* (1994).

<sup>16</sup> *Id.* at § 6315A(a) & (b).

<sup>17</sup> Pub. L. No. 106-113, 113 Stat. 1501A-245 (1999); Pub. L. No. 106-554, 114 Stat. 2763A-31, 2763A-32 (2000).

<sup>18</sup> Under IASA, states were already required to conduct assessments during three grade spans and meet other requirements, including, e.g., alignment with state standards, disaggregation, inclusion of students with disabilities and limited English proficiency. See, Improving America's Schools Act, Pub. L. 103-382, 108 Stat. 3519, 20 U.S.C. § 6301 *et seq.* (1994). As of January 2001, however, the U.S. Department of Education determined that only 11 states had assessment systems in place that fully met these requirements. See, CITIZENS' COMMISSION ON CIVIL RIGHTS, CLOSING THE DEAL: A PRELIMINARY REPORT ON STATE COMPLIANCE WITH FINAL ASSESSMENT & ACCOUNTABILITY REQUIREMENTS UNDER THE IMPROVING AMERICA'S SCHOOLS ACT OF 1994 3 (Mar. 2001).

<sup>19</sup> DARIA HALL, ROSS WEINER, & KEVIN CAREY, EDUCATION TRUST, WHAT THE NEW 'AYP' TELLS US ABOUT SCHOOLS, STATES, AND PUBLIC EDUCATION (2003), available at [www.edtrust.org](http://www.edtrust.org).

<sup>20</sup> Michael Casserly, No Child Left Behind: A Status Report on Choice and Supplemental Services in America's Great City Schools. Presented at the conference *Leaving No Child Behind: Options for Kids in Failing Schools* at AEI in Washington, D.C. (Jan. 15-16, 2004).

<sup>21</sup> Robert Maranto & April Gresham Maranto, Can NCLB Increase Options for Low Income Students?: Evidence from Across the States. Presented at the conference *Leaving No Child Behind: Options for Kids in Failing Schools* at AEI in Washington, D.C. (Jan. 15-16, 2004).

<sup>22</sup> Guidance on supplemental educational services was provided August 22, 2003. DEPARTMENT OF EDUCATION, SUPPLEMENTAL EDUCATIONAL SERVICES: NON-REGULATORY GUIDANCE (Aug. 22, 2003), available at <http://www.ed.gov/policy/elsec/guid/suppsvcsguid.pdf>.

<sup>23</sup> DEPARTMENT OF EDUCATION, REPORT CARDS TITLE I, PART A: NON-REGULATORY GUIDANCE (Sept. 12, 2003), available at <http://www.ed.gov/programs/titleiparta/reportcardsguidance.doc>.

<sup>24</sup> NATIONAL HOUSEHOLD EDUCATION SURVEYS, TRENDS IN THE USE OF SCHOOL CHOICE 1993 TO 1999 (Department of Education, National Center for Education Statistics, May 2003).

<sup>25</sup> NATIONAL WORKING COMMISSION ON CHOICE IN K-12 EDUCATION, SCHOOL CHOICE: DOING IT THE RIGHT WAY MAKES A DIFFERENCE 10 (The Brown Center on Education Policy, The Brookings Institution ed., 2003), available at <http://www.brookings.edu/gs/brown/20031117schoolchoicereport.htm> [hereinafter *National Working Commission*].

<sup>26</sup> Goodwin Liu & William L. Taylor, School Choice to Achieve Desegregation (Aug. 8, 2003) (unpublished manuscript, on file with author).

<sup>27</sup> *Green v. County Sch. Bd.*, 391 U.S. 430 (1968).

<sup>28</sup> William L. Taylor, *The Continuing Struggle for Equal Educational Opportunity*, 71 N.C.L.Rev. 1963, 1701 ("In South Carolina, Georgia, Virginia, Florida, and North Carolina, for example, the percentage of black students in schools that were more than 50% white ranged from 40% to 60%, whereas in New York, Illinois and California, fewer than 25% of black students are in such desegregated schools.") (1983) citing Gary Orfield and Sean Reardon, *Race, Poverty and Inequality*, in Citizens' Commission on Civil Rights, *New Opportunities: Civil Rights at a Crossroads* 1, 30-38 (1992).

<sup>29</sup> *Milliken v. Bradley*, 418 U.S. 717 (1974).

<sup>30</sup> Liu & Taylor, *supra* note 26, at 9 -10.

<sup>31</sup> Richard Lee Colvin, Public School Choice: An Overview. Presented at the conference *Leaving No Child Behind: Options for Kids in Failing Schools* at AEI in Washington, D.C. (Jan. 15-16, 2004).

<sup>32</sup> The Magnet Schools Assistance Program is Title V, Part C of the No Child Left Behind Act. It provides grants to establish and operate magnet schools in school districts that are under a court-ordered or federally approved voluntary desegregation plan.

<sup>33</sup> Education Commission of the States, Issue Site: Magnet Schools Quick Facts, at [www.ecs.org/html/issue.asp?issueID=80](http://www.ecs.org/html/issue.asp?issueID=80).

<sup>34</sup> Because of definitional issues, it is difficult to determine how many alternative schools exist. The 2001 “District Survey of Alternative Schools and Programs” conducted by the National Center for Education Statistics found 10,900 alternative schools and programs for at-risk students during the 2000-2001 school year. The survey results can be found at [www.nces.ed.gov/surveys/frss/publications/2002004/](http://www.nces.ed.gov/surveys/frss/publications/2002004/).

<sup>35</sup> WILLIAM LOWE BOYD, DEBRA HARE, & JOE NATHAN, CENTER FOR SCHOOL CHANGE, HUBERT H. HUMPHREY INSTITUTE OF PUBLIC AFFAIRS, WHAT REALLY HAPPENED? MINNESOTA’S EXPERIENCE WITH STATEWIDE PUBLIC SCHOOL CHOICE PROGRAMS (University of Minnesota ed., 2002), available at <http://www.hhh.umn.edu/centers/school-change/docs/wrhc.pdf>.

<sup>36</sup> US Charter Schools, at [www.uscharterschools.org](http://www.uscharterschools.org).

<sup>37</sup> NATIONAL CENTER FOR EDUCATION STATISTICS, CONTEXTS OF ELEMENTARY AND SECONDARY EDUCATION 2002 (Department of Education ed., 2002).

<sup>38</sup> TODD ZIEBARTH, EDUCATION COMMISSION OF THE STATES, SCHOOL CHOICE: STATE LAWS (May 2003), available at <http://www.ecs.org/clearinghouse/13/75/1375.doc>; Education Commission for the States, School Choice State Laws: 50-State Profile, at <http://mb2.ecs.org/reports/report.aspx?id=205> (last visited Mar. 17, 2004).

<sup>39</sup> TODD ZIEBARTH, EDUCATION COMMISSION OF THE STATES, SCHOOL CHOICE: STATE LAWS (May 2003), available at <http://www.ecs.org/clearinghouse/13/75/1375.doc>.

<sup>40</sup> Colvin, *supra* note 31, citing NATIONAL CENTER FOR EDUCATION STATISTICS, CONTEXTS OF ELEMENTARY AND SECONDARY EDUCATION 2002 (Department of Education ed., 2002).

<sup>41</sup> Education Commission of the States, School Choice State Laws: 50-State Profile, *supra* note 38.

<sup>42</sup> Colvin, *supra* note 31.

<sup>43</sup> EDUCATION COMMISSION OF THE STATES, STATE NOTES: OPEN ENROLLMENT (Aug. 2001), available at <http://www.ecs.org/clearinghouse/28/73/2873.htm>.

<sup>44</sup> *Id.*

<sup>45</sup> Boyd et al, *supra* note 35.

<sup>46</sup> David N. Plank & Christopher Dunbar, Jr., Leaving No Child Behind? False Start in Michigan. Presented at the conference Leaving No Child Behind: Options for Kids in Failing Schools at AEI in Washington, D.C. (Jan. 15-16, 2004).

<sup>47</sup> Colvin, *supra* note 31, citing California Department of Education, Evaluation of the District Choice, Alternative Interdistrict Attendance Program, 1995-2002, Policy and Evaluation Division (Sept. 2003).

<sup>48</sup> *Zelman v. Simmons-Harris*, 536 U.S. 639 (2002).

<sup>49</sup> *Bagley v. Raymond Sch. Dep’t*, 728 A.2d 127 (Me. 1999), *Chittenden Town Sch. Dist. v. Dep’t. of Educ.*, 738 A.2d 539 (Vt. 1999); See, Mark Walsh, *Court Excludes Religious Schools from ‘Tuitioning’*, EDUCATION WEEK, May 5, 1999, at 3, available at <http://www.edweek.com/ew/vol-18/34maine.h18>.

<sup>50</sup> GEN. ACCOUNTING OFFICE, SCHOOL VOUCHERS: CHARACTERISTICS OF PRIVATELY FUNDED PROGRAMS (Sept. 2002), available at [www.gao.gov/new.items/d02752.pdf](http://www.gao.gov/new.items/d02752.pdf).

<sup>51</sup> NATIONAL CENTER FOR EDUCATION STATISTICS, HOMESCHOOLING IN THE UNITED STATES, 1999 (2001), available at <http://www.nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2001033>.

<sup>52</sup> *National Working Commission*, *supra* note 25 at 15.

<sup>53</sup> *Id.* at 16.

<sup>54</sup> *Id.* at 16-17.

<sup>55</sup> Liu & Taylor, *supra* note 26, at 29.

<sup>56</sup> *Id.* at 30.

<sup>57</sup> *Id.* at 31.

<sup>58</sup> Paul T. Hill, *Doing Choice Right: Help for Students, as Well as Public Schools, Will Depend on That*, EDUCATION WEEK, November 19, 2003, Commentary.

<sup>59</sup> Jimmy Kim & Gail L. Sunderman, Findings from the First Phase of Schools Choice Implementation in Three Districts: Buffalo, New York, Richmond, Virginia, Dekalb County, Georgia (The Civil Rights Project, Harvard University ed., April 2003)

<sup>60</sup> Marguerite Roza & Paul T. Hill, Center on Reinventing Public Education: How Within-District Spending Inequities Help Some Schools Fail (Draft) (University of Washington ed., 2003), *available at* <http://www.crpe.org/pubs/introSchoolFunding.shtml>.

<sup>61</sup> *Id.*

<sup>62</sup> See Title I, Sec. 1120A, 20 U.S.C. § 6321(c). The law's "comparability" provisions deem a district to be in compliance when it has implemented a district-wide salary schedule and other written "polic[ies] to ensure equivalence among schools in staffing, materials and supplies." 20 U.S.C. § 6321(c)(2)(A).

<sup>63</sup> Roza & Hill, *supra* note 60.

<sup>64</sup> Colvin, *supra* note 31 at 15.

<sup>65</sup> Liu & Taylor *supra* note 26, at 39.

<sup>66</sup> *Id.* at 38.

<sup>67</sup> Data from 10 states and 68 districts in remaining states.

<sup>68</sup> Data from 6 states and 46 districts in remaining states.

<sup>69</sup> Data from 10 states and 64 districts in remaining states.

<sup>70</sup> Data from 5 states and 36 districts in remaining states.

<sup>71</sup> Data from 6 states and 34 districts in remaining states.

<sup>72</sup> Data from 10 states and 53 districts in remaining states.

<sup>73</sup> Kim & Sunderman, *supra* note 59.

<sup>74</sup> Douglas S. Reed, Montgomery County, Title I and No Child Left Behind: Four Stories of Implementing School Choice. Presented at the conference *Leaving No Child Behind: Options for Kids in Failing Schools* at AEI in Washington, D.C. (Jan. 15-16, 2004).

<sup>75</sup> Julian R. Betts & Anne Danenberg, Do Too Many Cooks Spoil the Broth? The Implementation of No Child Left Behind in San Diego. Presented at the conference *Leaving No Child Behind: Options for Kids in Failing Schools* at AEI in Washington, D.C. (Jan. 15-16, 2004).

<sup>76</sup> Casserly, *supra* note 20 at 11.

<sup>77</sup> Plank & Dunbar, *supra* note 46.

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> DEPARTMENT OF EDUCATION, PUBLIC SCHOOL CHOICE: DRAFT NON-REGULATORY GUIDANCE 10 (Dec. 4, 2002).

<sup>81</sup> Interview with Michelle Cahill, Policy Advisor to the Superintendent of New York City Public Schools, at *Jobs for the Future* Conference, Washington, D.C. (Oct. 23, 2003).

<sup>82</sup> Elizabeth Duffrin, *Half of High Schoolers Bypass their Local Schools*, CHICAGO CATALYST, December 2001, cited by Colvin, *supra* note 31.

<sup>83</sup> Colvin, *supra* note 31.

<sup>84</sup> See Alexander Russo, *Chicago's Tale Illustrates Districts' NCLB Reluctance*, TITLE I REPORT (Oct. 2003).

<sup>85</sup> Boyd et al, *supra* note 35.

<sup>86</sup> Colvin, *supra* note 31.

<sup>87</sup> In 2001, Florida expanded a pilot voucher program enacted in 1999. The new law made all special-needs students eligible for vouchers to attend other public or private schools. The number of students receiving McKay Scholarships is over 9,000, See, JAY P. GREENE & GREG FOSTER, *VOUCHERS FOR SPECIAL EDUCATION STUDENTS: AN EVALUATION OF FLORIDA'S MCKAY SCHOLARSHIP PROGRAM 2* (Center for Civic Innovation at the Manhattan Institute ed., 2003).

<sup>88</sup> Alan Richard, *Florida Sees Surge in Use of Vouchers*, EDUCATION WEEK, September 4, 2002.

<sup>89</sup> 20 U.S.C.A. § 6316(b)(11) (2003).

<sup>90</sup> 20 U.S.C.A. § 6316(c)(10)(C)(vii) (2003).

<sup>91</sup> Casserly, *supra* note 20.

<sup>92</sup> Alex Medler, Implementing the No Child Left Behind (NCLB) Act in Colorado: Layered Reforms and Challenges of Scale. Presented at the conference *Leaving No Child Behind: Options for Kids in Failing Schools* at AEI in Washington, DC (Jan. 15-16, 2004).

<sup>93</sup> Colvin, *supra* note 31.

<sup>94</sup> Susan Snyder, *No Child Left Behind Law Bumps into Hard Reality*, PHILADELPHIA INQUIRER, October 12, 2003, at A01.

<sup>95</sup> Michael Dobbs, *School Choice, Limited Options*, THE WASHINGTON POST, December 22, 2003.

<sup>96</sup> Carrie Watters, *Students Face Delay in Desire to Transfer*, ROCKFORD REGISTER STAR, September 9, 2003.

<sup>97</sup> Statement of Richard Colvin at the American Enterprise Institute Conference — *Leaving No Child Behind: Options for Kids in Failing Schools*, Washington, DC (Jan. 15, 2004).

<sup>98</sup> William L. Taylor, *Title I as an Instrument for Achieving Desegregation and Equal Educational Opportunity*, 81 N.C.L.Rev. 1751, 1760-61 (arguing that an “effort at affirmative outreach [to parents] similar to that in St. Louis is needed to make the transfer program work”) (2003).

<sup>99</sup> Rosalind Rossi, *Aid Promised for 'Choice' Schools*, CHICAGO SUN-TIMES, August 16, 2003, ; Rosalind Rossi, *Early Results on "No Child" Progress*, CHICAGO SUN-TIMES, April 25, 2004.

## References

### Cases

*Bagley v. Raymond Sch. Dep't*, 728 A.2d 127 (Me. 1999)  
*Brown v. Bd. of Educ.*, 347 U.S. 483 (1954)  
*Chittenden Town Sch. Dist. v. Dep't. of Educ.*, 738 A.2d 539 (Vt. 1999)  
*Green v. County Sch. Bd.*, 391 U.S. 430 (1968)  
*Milliken v. Bradley*, 418 U.S. 717 (1974)  
*Sheff v. O'Neill*, 678 A.2d 1267 (Conn. 1996)  
*Zelman v. Simmons-Harris*, 536 U.S. 639 (2002)

### Statutes

Civil Rights Act of 1964, Pub. L. 88-352 (1964).

Title VI — Non-Discrimination in Federally Assisted Programs

Improving America's Schools Act, Pub. L. 103-382, 108 Stat. 3519, 20 U.S.C. § 6301 *et seq.* (1994).

No Child Left Behind Act of 2001, Pub. L. 107-110, 115 Stat. 1425, 20 U.S.C.A. § 6301 *et seq.* (West 2003).

Title V Part A — Local Innovative Education Program Funds

Title V Part C — Magnet Schools Assistance

20 U.S.C.A. § 6315A(a) & (b)

20 U.S.C.A. § 6311(h)(4)

20 U.S.C.A. § 6311(h)(4)(F)

20 U.S.C.A. § 6316(b)(1)(E)

20 U.S.C.A. § 6316(b)(5)

20 U.S.C.A. § 6316(b)(6)

20 U.S.C.A. § 6316(b)(10)

20 U.S.C.A. § 6316(b)(11)

20 U.S.C.A. § 6316(b)(12)

20 U.S.C.A. § 6316(b)(13)

20 U.S.C.A. § 6316(c)(10)(C)(vii)

20 U.S.C.A. § 7305b

20 U.S.C.A. § 7912(a)

## Guidance

DEPARTMENT OF EDUCATION, PUBLIC SCHOOL CHOICE: DRAFT NON-REGULATORY GUIDANCE 16 (Dec. 4, 2002)

DEPARTMENT OF EDUCATION, PUBLIC SCHOOL CHOICE: DRAFT NON-REGULATORY GUIDANCE (Feb. 6, 2004), *available at* [www.ed.gov/policy/elsec/guid/schoolchoiceguid.pdf](http://www.ed.gov/policy/elsec/guid/schoolchoiceguid.pdf).

DEPARTMENT OF EDUCATION, REPORT CARDS TITLE I, PART A: NON-REGULATORY GUIDANCE (Sept. 12, 2003), *available at* [www.ed.gov/programs/titleiparta/reportcardsguidance.doc](http://www.ed.gov/programs/titleiparta/reportcardsguidance.doc).

DEPARTMENT OF EDUCATION, SUPPLEMENTAL EDUCATIONAL SERVICES: NON-REGULATORY GUIDANCE (Aug. 22, 2003), *available at* [www.ed.gov/policy/elsec/guid/suppsvcsguid.pdf](http://www.ed.gov/policy/elsec/guid/suppsvcsguid.pdf).

## Other Sources

Julian R. Betts & Anne Danenberg, Do Too Many Cooks Spoil the Broth? The Implementation of No Child Left Behind in San Diego. Presented at the conference *Leaving No Child Behind: Options for Kids in Failing Schools* at AEI in Washington, D.C. (January 15-16, 2004).

WILLIAM LOWE BOYD, DEBRA HARE, & JOE NATHAN, CENTER FOR SCHOOL CHANGE, HUBERT H. HUMPHREY INSTITUTE OF PUBLIC AFFAIRS, WHAT REALLY HAPPENED? MINNESOTA'S EXPERIENCE WITH STATEWIDE PUBLIC SCHOOL CHOICE PROGRAMS (University of Minnesota ed., 2002), *available at* [www.hhh.umn.edu/centers/school-change/docs/wrhc.pdf](http://www.hhh.umn.edu/centers/school-change/docs/wrhc.pdf).

Interview with Michelle Cahill, Policy Advisor to the Superintendent of New York City Public Schools, at *Jobs for the Future* Conference, Washington, D.C. (Oct. 23, 2003).

Michael Casserly, No Child Left Behind: A Status Report on Choice and Supplemental Services in America's Great City Schools. Presented at the conference *Leaving No Child Behind: Options for Kids in Failing Schools* at AEI in Washington, D.C. (January 15-16, 2004).

CENTER FOR THE STUDY OF SOCIAL POLICY, POLICY MATTERS: SETTING AND MEASURING BENCHMARKS FOR STATE POLICIES: RAISING EDUCATIONAL ACHIEVEMENT (2003).

CITIZENS' COMMISSION ON CIVIL RIGHTS, CLOSING THE DEAL: A PRELIMINARY REPORT ON STATE COMPLIANCE WITH FINAL ASSESSMENT & ACCOUNTABILITY REQUIREMENTS UNDER THE IMPROVING AMERICA'S SCHOOLS ACT OF 1994 3 (Mar. 2001).

Richard Lee Colvin, Public School Choice: An Overview. Presented at the conference *Leaving No Child Behind: Options for Kids in Failing Schools* at AEI in Washington, D.C. (January 15-16, 2004).

Statement of Richard Colvin at the American Enterprise Institute Conference — *Leaving No Child Behind: Options for Kids in Failing Schools*, Washington, D.C. (Jan. 15, 2004).

Michael Dobbs, *School Choice, Limited Options*, THE WASHINGTON POST, December 22, 2003.

Elizabeth Duffrin, *Half of High Schoolers Bypass their Local Schools*, CHICAGO CATALYST, December 2001, cited by Colvin.

Education Commission of the States, Issue Site: Magnet Schools Quick Facts, at [www.ecs.org/html/issue.asp?issueID=80](http://www.ecs.org/html/issue.asp?issueID=80).

Education Commission for the States, School Choice State Laws: 50-State Profile, at <http://mb2.ecs.org/reports/report.aspx?id=205> (last visited Mar. 17, 2004).

EDUCATION COMMISSION OF THE STATES, STATE NOTES: OPEN ENROLLMENT (Aug. 2001), available at [www.ecs.org/clearinghouse/28/73/2873.htm](http://www.ecs.org/clearinghouse/28/73/2873.htm).

GEN. ACCOUNTING OFFICE, SCHOOL VOUCHERS: CHARACTERISTICS OF PRIVATELY FUNDED PROGRAMS (Sept. 2002), available at [www.gao.gov/new.items/d02752.pdf](http://www.gao.gov/new.items/d02752.pdf).

JAY P. GREENE & GREG FOSTER, VOUCHERS FOR SPECIAL EDUCATION STUDENTS: AN EVALUATION OF FLORIDA'S MCKAY SCHOLARSHIP PROGRAM 2 (Center for Civic Innovation at the Manhattan Institute ed., 2003).

DARIA HALL, ROSS WEINER, & KEVIN CAREY, EDUCATION TRUST, WHAT THE NEW 'AYP' TELLS US ABOUT SCHOOLS, STATES, AND PUBLIC EDUCATION (2003), available at [www.edtrust.org](http://www.edtrust.org).

Paul T. Hill, *Doing Choice Right: Help for Students, as Well as Public Schools, Will Depend on That*, EDUCATION WEEK, November 19, 2003, Commentary.

Jimmy Kim & Gail L. Sunderman, Findings from the First Phase of Schools Choice Implementation in Three Districts: Buffalo, New York, Richmond, Virginia, Dekalb County, Georgia (The Civil Rights Project, Harvard University ed., April 2003).

Goodwin Liu & William L. Taylor, School Choice to Achieve Desegregation, (Aug. 8, 2003) (unpublished manuscript, on file with author).

Robert Maranto & April Gresham Maranto, Can NCLB Increase Options for Low Income Students?: Evidence from Across the States. Presented at the conference *Leaving No Child Behind: Options for Kids in Failing Schools* at AEI in Washington, D.C. (January 15-16, 2004).

Alex Medler, Implementing the No Child Left Behind (NCLB) Act in Colorado: Layered Reforms and Challenges of Scale. Presented at the conference *Leaving No Child Behind: Options for Kids in Failing Schools* at AEI in Washington, DC (January 15-16, 2004).

NATIONAL CENTER FOR EDUCATION STATISTICS, CONTEXTS OF ELEMENTARY AND SECONDARY EDUCATION 2002 (Department of Education ed., 2002).

NATIONAL CENTER FOR EDUCATION STATISTICS, HOMESCHOOLING IN THE UNITED STATES, 1999 (2001), available at [www.nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2001033](http://www.nces.ed.gov/pubsearch/pubsinfo.asp?pubid=2001033).

NATIONAL CENTER FOR EDUCATION STATISTICS, PUBLIC ALTERNATIVE SCHOOLS AND PROGRAMS FOR STUDENTS AT RISK OF EDUCATION FAILURE: 2000-01 (2002), available at [www.nces.ed.gov/surveys/frss/publications/2002004/](http://www.nces.ed.gov/surveys/frss/publications/2002004/).

NATIONAL HOUSEHOLD EDUCATION SURVEYS, TRENDS IN THE USE OF SCHOOL CHOICE 1993 TO 1999 (Department of Education, National Center for Education Statistics, May 2003).

NATIONAL WORKING COMMISSION ON CHOICE IN K-12 EDUCATION, *SCHOOL CHOICE: DOING IT THE RIGHT WAY MAKES A DIFFERENCE 10* (The Brown Center on Education Policy, The Brookings Institution ed., 2003), available at [www.brookings.edu/gs/brown/20031117schoolchoicereport.htm](http://www.brookings.edu/gs/brown/20031117schoolchoicereport.htm).

OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION AND WELFARE, *EQUALITY OF EDUCATIONAL OPPORTUNITY* (1966) [*Coleman Report*].

David N. Plank & Christopher Dunbar, Jr., *Leaving No Child Behind? False Start in Michigan*. Presented at the conference *Leaving No Child Behind: Options for Kids in Failing Schools* at AEI in Washington, D.C. (January 15-16, 2004).

Douglas S. Reed, *Montgomery County, Title I and No Child Left Behind: Four Stories of Implementing School Choice*. Presented at the conference *Leaving No Child Behind: Options for Kids in Failing Schools* at AEI in Washington, D.C. (January 15-16, 2004).

Alan Richard, *Florida Sees Surge in Use of Vouchers*, EDUCATION WEEK, September 4, 2002.

Rosalind Rossi, *Aid Promised for 'Choice' Schools*, CHICAGO SUN-TIMES, August 16, 2003.

Rosalind Rossi, *Early Results on "No Child" Progress*, CHICAGO SUN-TIMES, April 25, 2004.

Marguerite Roza & Paul T. Hill, *Center on Reinventing Public Education: How Within-District Spending Inequities Help Some Schools Fail* (Draft) (University of Washington ed., 2003), available at [www.crpe.org/pubs/introSchoolFunding.shtml](http://www.crpe.org/pubs/introSchoolFunding.shtml).

Alexander Russo, *Chicago's Tale Illustrates Districts' NCLB Reluctance*, TITLE I REPORT (Oct. 2003).

Susan Snyder, *No Child Left Behind Law Bumps into Hard Reality*, PHILADELPHIA INQUIRER, October 12, 2003, at A01.

William L. Taylor, *The Continuing Struggle for Equal Educational Opportunity*, 71 N.C.L.Rev. 1963, 1701 (1983).

William L. Taylor, *Title I as an Instrument for Achieving Desegregation and Equal Educational Opportunity*, 81 N.C.L.Rev. 1751, 1760-61 (2003).

U.S. Charter Schools, at [www.uscharterschools.org](http://www.uscharterschools.org).

U.S. Department of Education, *Prospects: The Congressionally Mandated Study of Educational Growth and Opportunity* (1997).

Mark Walsh, *Court Excludes Religious Schools from 'Tuitioning'*, EDUCATION WEEK, May 5, 1999, at 3, available at [www.edweek.com/ew/vol-18/34maine.h18](http://www.edweek.com/ew/vol-18/34maine.h18).

Carrie Watters, *Students Face Delay in Desire to Transfer*, ROCKFORD REGISTER STAR, September 9, 2003.

TODD ZIEBARTH, EDUCATION COMMISSION OF THE STATES, SCHOOL CHOICE: STATE LAWS (May 2003), *available at* [www.ecs.org/clearinghouse/13/75/1375.doc](http://www.ecs.org/clearinghouse/13/75/1375.doc).

## About the Authors

### Co-editors

**Dianne M. Piché** is Executive Director of the Citizens' Commission on Civil Rights. A civil rights lawyer, writer, and advocate, she has specialized in legislation and litigation to promote educational equity. Prior to assuming her current position, Ms. Piché directed the Commission's Title I Monitoring Project, which examined the impact of education reforms on disadvantaged children and documented widespread violations of federal requirements to protect poor and minority students. As a litigator, she has represented plaintiff school children in desegregation cases in St. Louis, Fort Wayne, and elsewhere. Ms. Piché has written and lectured on subjects including education reform, school finance, affirmative action, and school desegregation and teaches a graduate course in education law and policy at the University of Maryland. She has been an advisor to congressional committees and to education and advocacy groups.

**William L. Taylor** is a lawyer, teacher, and writer in the fields of civil rights and education. He practices law in Washington, D.C., specializing in litigation and other forms of advocacy on behalf of low-income and minority children. He began his legal career in 1954 working for Thurgood Marshall and the NAACP Legal Defense and Education Fund. In the 1960s he served as General Counsel and later as staff director of the U.S. Commission on Civil

Rights, where he directed major investigations and research studies that contributed to the civil rights laws enacted in the 1960s. In 1970, he founded the Center for National Policy Review, a civil rights research and advocacy organization funded by private foundations that he directed for 16 years. Mr. Taylor has long been a leader of the Leadership Conference on Civil Rights and currently serves as Vice Chairman. He was also a founder and now serves as the Chair of the Citizens' Commission on Civil Rights.

### Principal Author and Investigator

**Cynthia G. (Cindy) Brown** is currently an independent education consultant. She has spent over 35 years working in a variety of professional positions addressing high quality, equitable public education and civil rights issues.

Brown consults on a variety of education issues, from preschool through postsecondary education and focuses primarily on improving student achievement and providing related agency and community supports to low-income and minority students, students with disabilities, and families. She advises and writes for local and state school systems, education associations, foundations, nonprofit organizations, and a corporation. Current or recent clients include the Annie E. Casey Foundation (community schools initiative of its Milwaukee and Seattle Making Connections sites), The Children's Defense Fund, the Center for Law and Social Policy, the Center for the Study of Social Policy,

the Citizens' Commission on Civil Rights, the Council of Chief State School Officers, the Edna McConnell Clark Foundation, the National Center for Education and the Economy, the Public Education Network, the Success For All Foundation, the Trust for Early Education, and the Youth Smoking Prevention Program of Philip Morris USA.

From 1986 through September 2001, Brown served as Director of the Resource Center on Educational Equity of the Council of Chief State School Officers. She was the first Assistant Secretary for Civil Rights in the U.S. Department of Education (1980). Prior to that she served as Principal Deputy of HEW's Office for Civil Rights during the Carter Administration. Subsequent to this government service, she was Co-Director of the nonprofit Equality Center. Before the Carter Administration, she worked for the Lawyers' Committee for Civil Rights under Law, the Children's Defense Fund, and began her career in the HEW Office for Civil Rights as an investigator.

Brown has a Masters in Public Administration from the Maxwell School at Syracuse University and a Bachelor of Arts from Oberlin College. She serves as Chair of the Institute for Responsive Education Board of Directors and on the Board of Directors of the American Youth Policy Forum and Parents as Teachers National Center.

## Research Associate

**Lysandra López-Medina** is a lawyer and educator. Ms. López earned a JD from American University, Washington College of Law in May 2003 and was admitted into the Maryland State Bar in December 2003. She also holds a BAE in Elementary Education from Arizona State University and a MEd in Guidance & Counseling from Slippery Rock University in Slippery Rock, PA. For three years, Ms. López was a bilingual school teacher in Providence, RI. There, she served as Windmill School's Head Teacher for the LIFT (Language Instruction for Transition) Program. At CCCR, Ms. Lopez assists with data collection and conducts policy and legal research focused on Title I of the Elementary and Secondary Education Act.

## Project Coordinator

**Robin A. Reed** has worked as Project Coordinator for the Citizens' Commission since 2001. She focuses on research, publications management, and information technology. She maintains the Commission's website and co-edited the 2002 edition of its biennial civil rights report, *Rights at Risk: Equality in an Age of Terrorism*. Ms. Reed has a bachelor's degree in Literature from American University.